City of Bellingham
City Council Regular Meeting Agenda
September 30, 2024, 7:00 PM

Mayor: Kimberley Lund
Council Members: Hannah Stone, Hollie Huthman, Daniel Hammill, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist and Jace Cotton
Legislative Manager: Jackie Weller

Contact: (360) 778-8100, mayorsoffice@cob.org
Contact: (360) 778-8200, ccmail@cob.org
https://cob.org/council

Watch Council Meetings Live

The City Council Regular meetings are conducted in a hybrid setting: both in-person and online.

In Person:

All meetings are held in Council Chambers on the second floor of City Hall, 210 Lottie Street, Bellingham, unless otherwise noted. The doors unlock at 6:30 PM for the 7:00 PM meeting.

Live on YouTube and Comcast:

Council meetings are streamed live via the City's website at https://cob.org/meetings and on the City's YouTube channel at https://cob.org/btv. Meetings are also broadcast on BTV: Comcast channels 321 and 10.

Via Telephone:

Members of the public who do not have cable or internet access may listen to the meeting via telephone by calling (253) 215-8782 and entering Meeting ID: **820 8245 2733** and Password: **9**

Language Access:

Spanish interpretation will be available at the Regular Meeting at 7:00 PM. In-person attendees will have interpretation headsets available to them. Remote attendees can navigate to www.cob.org/cczoom to login via Zoom, then select the interpretation channel at the bottom of the screen. Those wishing to offer public comment in Spanish will be able to do so and their comments will be interpreted into English.

Provide your Input

During a Meeting:

To speak during a Public Hearing or Public Comment Session, advance registration is required. Sign-up sheets will be available outside the Council Chamber doors starting at 6:30 PM the evening of the meeting. Registration closes when the meeting begins at 7:00 PM. *Please note: Public comment is currently available only to in-person attendees. In light of recent hate speech incidents across the state, the Bellingham City Council will not be offering public comment via Zoom until further notice.* ***The City may provide accommodation for individuals with disabilities who wish to participate in City Council's public comment period, including virtual participation options. Please contact the Council Office at (360) 778-8200 or ccmail@cob.org to request an accommodation no later than 3:00 PM on the day of the meeting.*** *Public comment is always welcome via e-mail, phone, or mail.*

Before or After a Meeting:

Advance written Public Hearing testimony and general written Public Comment can be presented:

- By mail addressed to: City Council, 210 Lottie Street, Bellingham, WA 98225
- Electronically:
    - For a public hearing: https://cob.org/publichearing
    - For general public comment: E-mail all Council Members at ccmail@cob.org.

Regular Meeting

The following items are heard in the Regular Meeting only:

Call to Order

Announcements & Upcoming Meetings:

Bellingham City Council meets all requirements of the State of Washington Open Public Meetings Act.

1. **Land Acknowledgement Statement**
   Before we begin, we acknowledge that we are gathered on the traditional and unceded territory of the Lummi, Nooksack, Samish and Semiahmoo People who have cared for and tended this land since time immemorial. Truth and acknowledgment are critical to building mutual respect and connection across all barriers of heritage and difference. We begin this effort to acknowledge what has been buried by honoring the truth. We pay respect to their elders past and present. Please take a moment to consider the many legacies of violence, displacement, migration, and settlement that bring us together here today. And please join us in uncovering such truths at any and all public events.

2. **Language Access**
   The Bellingham City Council provides Spanish interpretation at all regular evening meetings. Interpretation can be accessed by in-person attendees by utilizing the headsets located at the front of the room. Remote viewers can log on to cob.org/cczoom and click on the "Language" icon at the bottom of the screen to listen in Spanish.

3. **Public Hearing for a Bellingham Police Department Grant Application**
   The Bellingham City Council will hold a public hearing on October 7, 2024 to take public comment on the Bellingham Police Department's application for a grant through the Department of Justice, BJA FY24 Edward Byrne Memorial Assistance Grant (JAG). The Police Department would like to purchase six WRAP Restraint Systems and add four new team members and equipment to the Bike Response Team (BRT).

Roll Call

Mayor's Report

Standing time for briefings, updates and reports to Council by the Mayor, if needed. Information only.

24247 1. Mayor's Reappointment to the Mayor's Neighborhood Advisory Commission (Information) **p. 7**

24248 2. Mayor's Reappointment to the Bellingham Arts Commission (Approval) **p. 10**

Regular Meeting and Committee Sessions

The following are heard in both Committee sessions and Regular Meeting in order below:

Council Standing Committee Meetings:

Open to the public to attend. Note: there is generally no public comment period for Committee sessions. Standing Committee Members receive reports and information, ask questions and, when appropriate, vote on a recommended action for consideration by the full Council at the Regular Meeting. The Committee Meetings identified below also serves as notice for Special Meetings of the City Council as Council Members routinely attend and participate in Committees they are not a member of. Committee Chairs give a report of the Committee Meeting at the Regular Meeting in the evening prior to deliberation and formal vote in the order shown below:

Committee of the Whole - Executive Session 8:50 AM

Closed to the public. Report in the Regular Meeting only:

1. **Potential Property Acquisition (Kraham, approx. 10 min.)**
2. **Potential Property Acquisition (Marriner, approx. 10 min.)**
3. **Labor Relations: Discuss Collective Bargaining Strategy (Sullivan, approx. 10 min.)**
4. **Potential Property Acquisition (Stamps, approx. 5 min.)**
5. **Potential Property Acquisition (Stamps, approx. 5 min.)**

Public Works and Natural Resources 9:30 AM

Hannah Stone, Chair
Lisa Anderson, Michael Lilliquist

24249	**1.**	**Approval of an Interlocal Agreement with Whatcom County for Lake Whatcom Forest Management Plan Partnership**	**p. 12**
24250	**2.**	**A Resolution Adopting Elements of the 2024 Fiber Network Comprehensive Plan in Order to Improve Fiber Network Redundancy and Resiliency and to Support the City's Needs in the Future**	**p. 19**

Community and Economic Development 10:20 AM

Jace Cotton, Chair
Hannah Stone, Hollie Huthman

24251	**1.**	**Old Town Base Camp Presentation by Lighthouse Mission Ministries**	**p. 190**

Committee Of The Whole 1:00 PM

Daniel Hammill, Chair
Hannah Stone, Hollie Huthman, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist, Jace Cotton

24252	**1.**	**Presentation of the 2025 Proposed Budget**	**p. 221**

24253	**2.**	**An Ordinance of the City of Bellingham Relating to Landlord Tenant Relations, Adopting a New Chapter in Title 6 of the Bellingham Municipal Code Prohibiting Landlords from Charging Tenants Unfair or Excessive Fees in Residential Rental Agreements and Leases**	**p. 225**
24254	**3.**	**An Ordinance Related to Manufactured/Mobile Home Landlord Tenant Relations, Adopting a New Chapter in Title 6 of the Bellingham Municipal Code Prohibiting Landlords from Charging Unfair or Excessive Fees in Manufactured/Mobile Home Lease Agreements**	**p. 270**
24267	**4.**	**Renewal of Interlocal Agreement for Inmate Housing at South Correctional Entity (SCORE)**	**p. 291**
24255	**5.**	**Multi-Family Tax Exemption (MFTE) Program Evaluation**	**p. 310**
24256	**6.**	**A Resolution Directing the Administration to Create a Limited Term Keep Washington Working Act (KWW) Advisory Work Group to Study the Act, Advise the City on Compliance, and Recommend Related Policy Considerations**	**p. 373**
24257	**7.**	**An Ordinance of the City of Bellingham, Washington, Dissolving the Immigration Advisory Board and Repealing Bellingham Municipal Code Chapter 2.26**	**p. 406**
24258	**8.**	**All-City Climate Workplan 2025**	**p. 410**
	9.	**Old/New Business**	

Consent Agenda

All matters listed on the Consent Agenda are considered routine and/or non-controversial items and may be approved in a single motion. A member of the Council may ask that an item be removed from the Consent Agenda and considered separately.

24259	**1.**	**Authorization of Payroll Labor Cost Payments Dated August 16, 2024 to August 31, 2024**	**p. 422**
24260	**2.**	**Authorization of A/P Transactions Issued September 06, 2024 through September 12, 2024**	**p. 423**
24261	**3.**	**Authorization of A/P Transactions Issued September 13, 2024 through September 19, 2024**	**p. 424**
24262	**4.**	**Contract Award for 2024 Crack Seal Program, Bid No. 36B-2024**	**p. 425**
24263	**5.**	**The Bellingham Police Department's Intent to Apply for the BJA FY24 Edward Byrne Memorial Justice Assistance Grant**	**p. 436**

24265	**6.**	**Inter-Agency Agreements with Washington State Department of Ecology (DOE) to Sponsor Washington Conservation Corps (WCC) Members for Restoration and Conservation Work**	**p. 487**
24266	**7.**	**An Interlocal Agreement between Whatcom County and the City of Bellingham to Provide Parking for the Bellingham Senior Activity Center**	**p. 505**
24264	**8.**	**Approval of the 9/16/2024 City Council Committee and Regular Meeting Minutes**	**p. 510**

Final Consideration of Ordinances

24235	**1.**	**An Ordinance Establishing a Shelter Protection Area Immediately Adjacent to the Way Station Located at 1500 N State Street within which Certain Activities that Adversely Affect the Operations and Residents of the Way Station and the Adjacent Area are Prohibited in Public Spaces**	**p. 522**

Public Comment Period

Advance sign-up is required for participation. Sign-up sheets will be available starting at 6:30 PM the evening of the meeting. Registration closes when the meeting begins at 7:00 PM. Each speaker will have three minutes. Oral public comment is currently only available to in-person attendees. Remote public comment via Zoom has been suspended until further notice. Exceptions for those requiring an accommodation for disability may be made. Please see the first page of the agenda for further details. Video of the public comment session will be available by visiting, https://cob.org/commentrecordings.

Adjournment

Agenda Information

Council Committee and Regular Meeting agendas and agenda packets, which contain the supporting documentation for agenda items, are available to the public Wednesday afternoon prior to the meeting. They are posted at https://cob.org/meetings. A hard copy of the agenda packet is available for review from the reference desk at the Finance Office at City Hall.

Meeting Live Broadcasts and Recordings

The Bellingham City Council Committee Meetings are broadcast live on BTV Bellingham at the times listed on the agenda. Committee session start times between 9:00 AM and 5:00 PM are estimated. A specific Committee may start later than the time published but will not begin earlier than its published time.

Television:

BTV can be found on cable systems as follows: Comcast channels 10 (standard) and 321 (high definition), and CenturyLink channels 40 (standard) and 1040 (high definition). Meetings are rebroadcast on the following schedule:

- Tues. 12 PM: Repeat broadcast of Monday afternoon Committee meetings
- Tues. 7 PM: Repeat broadcast of Monday night regular meeting
- Wed. 8 AM: Repeat broadcast of Monday night regular meeting
- Sat. 12 PM: Repeat broadcast of Monday afternoon Committee meetings
- Sat. 7 PM: Repeat broadcast of Monday night regular meeting

Online Streaming:
The meetings are streamed live at https://cob.org/btv. Online viewers will see exactly what cable customers would see.

Video:
Video recordings of each meeting are available on the Internet at https://cob.org/meetings within five business days following each meeting.

Accessibility

The Council Chambers is fully accessible. Elevator access to the second floor is available at City Hall's west entrance. Hearing assistance is available, and a receiver may be checked out through the Deputy City Clerk prior to the evening session. For additional accommodations, contact the Council Office at (360) 778-8200 in advance of the meeting.

Next City Council Meeting
Monday, October 7, 2024

Deadline to submit material for any public hearing for inclusion in the published agenda packet is 10:00 AM. on Wednesday prior to the meeting.

City Council Agenda Bill

24247

Bill Number

Subject: **Mayor's Reappointment to the Mayor's Neighborhood Advisory Commission (Information)**

Summary Statement: The Mayor's Neighborhood Advisory Commission is authorized by BMC 2.33.020.

The Mayor reappoints Jake Charlton as the Happy Valley Neighborhood Primary Representative to his final term, which will expire on September 19, 2026.

Previous Council Action: **N/A**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. APPLICATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Mayor's Report - Appointment - For Information	09/30/2024	Information/Discussion	Mayor Kim Lund	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Tracy Lewis, Mayor's Office

Council Action:

Reviewed By	Department	Date
Janice L. Keller	Executive	09/24/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

Lewis, Tracy L.

From: noreply@cob.org on behalf of City of Bellingham <noreply@cob.org>
Sent: Friday, September 16, 2022 10:48 AM
To: Lewis, Tracy L.
Subject: Boards and Commissions Application - Jake Charlton

City of Bellingham

Boards and Commissions Application

Entry Details

WHICH BOARD OR COMMISSION ARE YOU INTERESTED IN?	Mayor's Neighborhood Advisory Commission
NAME	Jake Charlton
EMAIL	
PRIMARY PHONE	
SECONDARY PHONE	
MAILING ADDRESS	Bellingham, Washington 98225
IS YOUR HOME ADDRESS THE SAME AS YOUR MAILING ADDRESS?	Yes
DO YOU LIVE WITHIN BELLINGHAM CITY LIMITS?	Yes
HOW LONG HAVE YOU LIVED IN BELLINGHAM?	22 years
WHAT NEIGHBORHOOD DO YOU LIVE IN?	Happy Valley

CURRENT (OR FORMER IF RETIRED) OCCUPATION	Software Engineer
HIGHEST LEVEL OF EDUCATION	BS from Western
PROFESSIONAL / COMMUNITY ACTIVITIES YOU ARE INVOLVED IN	Happy Valley Neighborhood Association Board
QUALIFICATIONS RELATED TO THIS POSITION	I am currently the Alternate representative for HVNA's MNAC position, but our primary's term expired, so we are making me the primary and adding a new secondary.
DESCRIBE WHY YOU ARE INTERESTED IN SERVING ON THIS BOARD OR COMMISSION	I like keeping a communication line open between my neighborhood and the city.
DO YOU OR YOUR SPOUSE HAVE A FINANCIAL INTEREST IN, OR ARE YOU AN EMPLOYEE OR OFFICE OF ANY BUSINESS OR AGENCY WHICH DOES BUSINESS WITH THE CITY OF BELLINGHAM?	No

References (Preferred)

Reference 1

NAME	Alex McLean
EMAIL	
PHONE	
UPLOAD FILES	

City Council Agenda Bill

24248

Bill Number

Subject: **Mayor's Reappointment to the Bellingham Arts Commission (Approval)**

Summary Statement: The Bellingham Arts Commission is authorized by BMC 2.36.010.

The Mayor reappoints Amy Chaloupka to her final term, which expire on October 24, 2028.

The Bellingham Arts Commission serves the City as advisors and advocates for the enhancement and integration of the arts in the community.

Previous Council Action: **N/A**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. APPLICATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Mayor's Report - Appointment - For Approval	09/30/2024	Approve Appointment	Mayor Lund	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Tracy Lewis, Mayor's Office

Reviewed By	Department	Date
Janice L. Keller	Executive	09/24/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

Council Action:

City Hall, 210 Lottie Street
Bellingham, WA 98225
Phone (360) 778-8100 Fax (360) 778-8101

APPLICATION FOR APPOINTMENT TO
CITY OF BELLINGHAM BOARDS AND COMMISSIONS
(Please Type or Print Clearly)

All applicants must be a citizen of the United States and of the City of Bellingham, a resident of the State of Washington for at least three (3) years, and of the City of Bellingham (residing within the City limits) for at least two (2) years, unless otherwise specified. Some residency exceptions may apply for certain boards. No elected City official, City officer, City employee or citizen having a conflict of interest shall be eligible for appointment.

Complete, sign and return this application to the Mayor's Office, City Hall, 210 Lottie Street, Bellingham, WA 98225.

Note: As a candidate to a public board or commission, this information may be made available to the public.

I am interested in serving on the: Arts Commission
(Board / Commission)

Name: Amy Chalupka

Mailing Address: [redacted] Bellingham, WA Zip Code: 98225

Street Address (if different): _____

Phone Numbers: Home _____ Cell: _____ Work: _____

Email Address: [redacted]

Are you a resident of the City of Bellingham (live within the city limits)? YES ☒ NO ☐

How long have you lived in Bellingham? 4 years

Neighborhood in which you reside: Lettered Streets

Current Occupation: museum curator

OR – If retired, former occupation: _____

Education: BFA - Photography/Painting, MFA/MA Sculpture

Professional / Community Activities: Public lectures at the Whatcom museum and art crawl, sit on juries for various

Qualifications Related to Position: former artist/juried to for Art Recurrent, member of a museum exhibitions dept for last 10 years, writing curating about art

Describe why you are interested in serving on this Board or Commission: to serve in the community I live and increase the visibility of and dialogue about art in Bellingham.

*Please feel free to submit any additional documentation (resumé, explanation of experience specifically related to this board/commission)

Do you or your spouse have a financial interest in, or are you an employee or officer of any business or agency which does business with the City of Bellingham? YES ☒ NO ☐

If yes, please explain: Contract curator for the Whatcom Museum. Position temporary and concludes Sept. 18 2016

Aug 5 2016
Today's Date

Signature of Applicant

City Council Agenda Bill

24249

Bill Number

Subject: **Approval of an Interlocal Agreement with Whatcom County for Lake Whatcom Forest Management Plan Partnership**

Summary Statement: The City of Bellingham's Public Works Department in partnership with the Whatcom County Parks & Recreation Department seeks to develop a comprehensive Forest Management Plan for the Lake Whatcom Watershed. The plan will include the City of Bellingham's Watershed acquisition lands and Whatcom County's forested park lands in and adjoining the Lake Whatcom Watershed. The purpose of the Lake Whatcom Forest Management Plan is to create an actionable and implementable document that serves as a long-range tool for the coordinated management of City and County-owned forestland. The plan will improve forest and Watershed health, climate and wildfire resiliency, water quality and overall ecology.

Previous Council Action: **Numerous previous partnerships with Whatcom County to protect and steward Lake Whatcom Watershed as the City's drinking water source**

Fiscal Impact: **The City's share is $41,295. Funding is included in the City's adopted 2023-2024 Budget**

Funding Source: **Watershed Fund (411)**

Attachments: 1. INTERLOCAL AGREEMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	09/30/2024	Vote to Approve	Joel Pfundt, Interim Public Works Director	10 minutes

Recommended Motion: Move to approve entering into an interlocal agreement with Whatcom County to create a coordinated Forest Managment Plan for Lake Whatcom Watershed.

Council Committee:
Public Works and Natural Resources Committee

Agenda Bill Contact:
Mike Parleskin, Natural Resources Field Operations Manager, (360) 778-7967

Council Action:

Reviewed By	Department	Date
Joel F. Pfundt	Public Works	09/20/2024
Matthew T. Stamps	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

INTERLOCAL AGREEMENT BETWEEN
WHATCOM COUNTY AND THE CITY OF BELLINGHAM FOR
LAKE WHATCOM FOREST MANAGEMENT PLAN PARTNERSHIP

WHEREAS, the City of Bellingham (City) and Whatcom County (County) have a long-standing partnership and an existing interlocal agreement creating the Lake Whatcom Management Program (LWMP), which has a goal to restore, protect and preserve Lake Whatcom and its surrounding watershed; and

WHEREAS, there are ten program areas in the LWMP, the third being "Land Use," which specifically states: "Prevent water quality and quantity impacts from new development, redevelopment, and forest practices.", and

WHEREAS, the City and the County both own large tracts of land in the Lake Whatcom watershed, including, in the case of the County, 8,800 acres of Forest Trust Lands reconveyed from the Department of Natural Resources for park purposes and protection of water quality (Reconveyance Lands), and in the case of the City, approximately 3,000 acres of land purchased for conservation purposes under the Lake Whatcom Property Acquisition Program; and

WHEREAS, the County, through a public process developed a Recreational Trail Plan in 2016 that addresses recreational use, access and watershed protection in accordance with the Lake Whatcom Management Program objectives in place at the time; and

WHEREAS, The City Council adopted *Management Recommendations for Lake Whatcom Watershed Protection Properties (2004)* by the Watershed Advisory Board via Resolution 2005-09 which center around developing a management strategy to enhance the water quality protection capabilities of the watershed properties and to permanently protect water quality against the adverse impacts of various land use activities; and

WHEREAS, Implementation of a comprehensive forest management plan can improve phosphorus reduction, resiliency to climate change, wildfire risk reduction, and overall ecological value; and

WHEREAS, strategic resource management will protect and enhance recreational experiences while lessening the impact on public and private water supply systems of Lake Whatcom; and

WHEREAS, a coordinated effort, including a sharing of some program costs, is needed to improve forested conditions in the Lake Whatcom watershed for those who rely on Lake Whatcom for clean and safe drinking water; and

WHEREAS, the City and the County have responsibility for management activities occurring on their respective properties and have committed resources to addressing forest management issues in the Lake Whatcom watershed; and

WHEREAS, A comprehensive forest management plan will provide coordinated recommendations for County and City forest management actions that may inform future resource allocations for resource management, respectively for the County and the City.

NOW, THEREFORE, Whatcom County and the City of Bellingham agree as follows:

1. SCOPE OF WORK

The County and the City will work in partnership to develop a scope of work for a forest management plan (Final Deliverable); identification of specific properties included in the planning process; prioritization of needs; stakeholder and public engagement; and a timeline for deliverables with Northwest Natural Resource Group ("the Contractor"), the contractor selected through the competitive selection process led by Whatcom County.

The County will have responsibility for administering the contract with NNRG. The City will reimburse the County for pro-rated contract expenses related to planning activities affecting City-owned properties.

The initially identified shared goals for forest management are to:

a. Focus on actions that positively impact water quality and forest health and otherwise support the goals and objectives of the current respective Whatcom County and Bellingham Comprehensive Plans and the Lake Whatcom Management Program, and in the case of the County, relevant recreation planning;
b. Present management strategies and stand-level prescriptions that utilize Best Management Practices to improve forest health, improve water quality and watershed health, increase fire resistance and climate resiliency, preserve and protect critical and unique habitats, and reduce the risk of mass wasting/debris torrent events;
c. Address issues affecting timely and efficient implementation, including the consideration of budgetary and other resource/capacity needs;
d. Identify expenses (e.g., administration, road maintenance, trail decommissioning, forest thinning, monitoring, etc.) as well as expected estimated revenues associated with management activities in order to inform Department decision-making;
e. Address potential issues affecting implementation and/or outcomes including those potentially associated with climate change and adjoining land use practices; and

f. Because there are multiple formal stakeholders with interests in responsible forest management in the watershed, the plan should be drafted with meaningful input from key stakeholders.

2. TERM

(a) Notwithstanding the date of signature hereof, this Agreement shall be effective September 10, 2024 and shall be automatically renewed unless cancelled in writing by either party within 60 days of its anniversary date.
(b) This Agreement may be terminated for convenience by either party after the giving of ninety (90) days written notice to the other party.
(c) This agreement may be terminated for cause by either party after giving the defaulting party thirty (30) days written notice of default and an opportunity to cure.

3. PAYMENT

The total contract with the Contractor for management plan development is a $133,060. The amount of payment by the City to the County will a maximum of $41,295. The County's maximum responsibility is $91,795.

(a) Payments to the County will be made quarterly based on invoices submitted to the City.
(b) The City shall promptly review and process invoices in accordance with its usual procedures.

4. PERSONS RESPONSIBLE FOR ADMINISTRATION OF THE AGREEMENT

The persons responsible for administration of this Agreement shall be:

Michael Parelskin
Field Operations Manager
Public Works Department
City of Bellingham
2200 Nevada Street
Bellingham, WA 98229
Phone: (360) 778-7967
Fax: (360) 778-7801

Bennett Knox
Parks Director
Parks Department
Whatcom County
3373 Mount Baker Highway
Bellingham, WA 98225
Phone: (360) 778-5855

5. LEGAL RELATIONS

In performing the services outlined in this Agreement, neither party is acting as the agent or employee of the other; rather, each party is acting as an independent contractor. Each party agrees to defend, indemnify, and hold harmless as to all claims for damages arising out of activities it undertakes arising out of this Agreement.

6. LIABILITY

The City agrees to release, defend and indemnify the County from any claims, damages or liabilities arising out of the acts or omissions of the City, its staff members and its contractors in the performance of this Agreement. Likewise, the County agrees to defend and indemnify the City from any claims, damages or liabilities arising out of the acts or omissions of the County, its staff members and its contractors in the performance of this Agreement.

7. MODIFICATIONS

The terms of this Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

8. APPLICABLE LAW

In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

9. SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

10. RESOLUTION OF DISAGREEMENTS

Parties agree to work between the respective Agreement Administrators to resolve disagreements that may arise in the implementation of this agreement and development of a final management plan.

10. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

EXECUTED this _____ day of _____, 2024 for **WHATCOM COUNTY**:

Satpal S. Sidhu
County Executive

DEPARTMENTAL APPROVAL:

Bennett Knox
Parks Director

APPROVED AS TO FORM:

Brandon Waldron
Prosecuting Attorney's Office

EXECUTED this _____ day of _____, 2024 for **CITY OF BELLINGHAM**:

	ATTEST:
Kim Lund Mayor	Finance Director
DEPARTMENTAL APPROVAL:	**APPROVED AS TO FORM:**
Michael Olinger Interim Co-Director of Public Works	Office of the City Attorney

City Council Agenda Bill

24250

Bill Number

Subject: **A Resolution Adopting Elements of the 2024 Fiber Network Comprehensive Plan in Order to Improve Fiber Network Redundancy and Resiliency and to Support the City's Needs in the Future**

Summary Statement: The City has concluded work to inventory existing conditions, identify resources and opportunities, and perform financial analysis in order to develop a Fiber Network Comprehensive Plan. This work effort is intended to address the Ad Hoc Broadband Advisory Committee's observations and recommendations, which were adopted by City Council in May 2023. As part of the planning process, funding opportunities to serve unserved and underserved areas in the community were evaluated, and market research was conducted in both the residential and business market segments. The Fiber Network Comprehensive Plan includes a Long-Term City Fiber Needs Map, as well as Next Steps for Fiber Testing and Infrastructure Upgrades that the City can implement to increase redundancy and resiliency in the City's existing fiber network system, as well as support the City's future needs.

Previous Council Action: **Formation of Broadband Advisory Workgroup, August 24, 2020 (Resolution #2020-31) and Adoption of Broadband Advisory Group Observations and Recommendations, May 8, 2023 (Resolution #2023-05)**

Fiscal Impact: **Infrastructure upgrades required to maintain the City's existing network capacity are expected to exceed $8 million**

Funding Source: **Funding Source Unknown**

Attachments:
1. STAFF MEMO
2. PRESENTATION
3. RESOLUTION
4. 2024 FIBER NETWORK COMPREHENSIVE PLAN

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	09/30/2024	Pass Resolution	Joel Pfundt, Interim Public Works Director	20 minutes

Recommended Motion: Move to approve resolution adopting elements of the 2024 Fiber Network Comprehensive Plan in order to improve fiber network redundancy and resiliency and to support the City's future needs.

Council Committee:
Public Works and Natural Resources Committee

Agenda Bill Contact:
John Gaven, Fiber Optic Network Engineer

Council Action:

Reviewed By	Department	Date
Joel F. Pfundt	Public Works	09/23/2024
Don C. Burdick	Information Technology	09/24/2024
Matthew T. Stamps	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL

FROM: JOEL PFUNDT, INTERIM PUBLIC WORKS DIRECTOR

CC: MAYOR KIM LUND

SUBJECT: FIBER NETWORK COMPREHENSIVE PLAN

DATE: SEPTEMBER 30, 2024

OVERVIEW

The City has concluded work to inventory existing conditions, identify resources and opportunities, and perform financial analysis in order to develop a comprehensive capital operations plan for its fiber network (Fiber Network Comprehensive Plan). This work effort is intended to address the observations and recommendations made by the Ad Hoc Broadband Advisory Committee (BAW) that were adopted by the City Council on May 8, 2023, as part Resolution Number 2023-05. The City retained a consultant (Uptown Services LLC) to perform the steps recommended by the BAW to develop a comprehensive capital and operations plan for the city's municipal fiber network to achieve "carrier class" capability by increasing redundancy and reliability through incremental infrastructure improvements. The City has learned a great deal during the process to develop the Fiber Network Comprehensive Plan and as part of the effort developed a Long-Term City Fiber Needs Map and Next Steps for Fiber Testing and Infrastructure Upgrades that will increase the redundancy and reliability of the City's fiber network.

BACKGROUND

The City of Bellingham's municipal network (89 route miles of fiber) supports many existing City services, such as fire, police, water, wastewater, streetlights, traffic signals and information technology, including providing public Wi-Fi at several City buildings and parks (32 sites total). It also provides services to Bellingham Public Schools and Whatcom Transportation Authority and supports Whatcom Regional 911 services and the Whatcom Unified Emergency Operations Center. The City's network has been developed opportunistically and economically over more than 30 years to support the City's, and our partner agency's needs. It was not designed and implemented to be consumer, enterprise, or carrier grade. This means that the City's existing network is not optimized for performance, reduced maintenance tasks, and redundancy to enable maximum network reliability and minimal downtime, which are all critical for using it to provide leased conduit and/or dark fiber access to businesses, broadband providers,

and other public organizations, as well as using it to provide last mile/fiber-to-the-home to residential customers.

Even with these limitations, in 2020 it was recognized that the City's existing network may have capacity to support a range of additional internet related services to our community that would address community needs and maybe even generate revenue. Yet determining if there was actual capacity available that could be leveraged to address this potential required review of existing conditions, policy guidance development and development of actionable next steps. All of these steps required detailed review and analysis. To that end, the BAW was created by the City Council under Resolution 2020-31 on August 24, 2020 to advise the City of policy considerations regarding municipal broadband and support City staff and their consultant team in their work.

The BAW met for over 20 months at the request of City Council to address the tasks identified in Resolution 2020-31, and in May of 2023, Resolution No. 2023-05, which contained the observations and recommendations of the BAW, was presented and adopt by City Council. The Resolution had six recommendations for the City:

1. Establish goals for broadband services in the City of Bellingham
2. Develop, implement, and seek funding to support a digital equity broadband adoption plan to provide the kind of broadband connection and support individuals need with a focus on unserved and underserved members of the community, including the "missing middle"
3. Develop a comprehensive capital and operations plan to:
    - Increase redundancy and reliability in the City's existing system,
    - Expand the use of the system following an "Infrastructure Only" model
    - Expand publicly accessible WIFI
    - Partner with other agencies and ISPs
4. Revise and update existing agreements with partner agencies
    - Meet the goals of the resolution
    - Serve the needs of the network users
5. Conduct a survey of city businesses to determine their current and future needs for broadband services.
6. The City consider a future role for the current Broadband Advisory Workgroup.

Based on the direction provided in Resolution No. 2023-35, City staff issued a request for proposals to develop a Municipal Fiber Comprehensive Plan. Based on this procurement process, the City retained the consultant services of Uptown Services LLC to develop a comprehensive capital and operations plan for the city's municipal fiber network. Uptown has completed over 40 broadband feasibility studies since 1999. Uptown business case financials have been used as the supporting financial analysis and justification to secure $480M in public funding for municipal broadband networks across 15 projects:

- Spanish Fork Community Network - $7.5M in bond financing for new broadband enterprise

- Alameda Power and Telecom - $33M in debt refinancing for existing hybrid fiber-coaxial (HFC) system
- Sallisaw Municipal Authority - $6.9M in original financing for new fiber-to-the-premises (FTTP) system
- City of Wilson, NC - $28M in original financing for new FTTP system
- Tullahoma Utilities Board - $18M in original financing for new FTTP system
- Salisbury, NC - $33M in original financing for new FTTP system
- Clarksville Department of Electricity - $17.5M in additional financing for existing FTTP system
- Concord Municipal Light Plant - $4.5M town meeting authorization to borrow for smart grid network
- Cedar Falls Utilities - $27M in financing for fiber-to-the-home (FTTH) upgrade of existing system
- Cedar Falls Utilities - $873K in grant funding for wireless and FTTH rural broadband expansion project
- City of Longmont, CO - $45M in original financing for new FTTP system
- City of Beverly Hills, CA - $35M in equity funding via General Fund for new FTTP system
- City of Fort Collins, CO - $150M in original financing for new FTTP system
- City of Hillsboro, OR – $70M in equity funding via General Fund for new FTTP system
- City of Glenwood Springs, CO - $9M in original financing for new FTTP system

The scope of work for the study and plan was developed to address many of the recommendations adopted by City Council in Resolution No. 2023-05, and included the following scope elements:

- Update Existing Infrastructure Documentation
- Identify Locations for New and Replacement Infrastructure
- Identify Operational Resources
- Identify Resources to Replace and Renew Infrastructure
- Complete Financial Analysis
- Identify Opportunities to Serve Unserved and Underserved Area
- Create Fiber Construction, Documentation, and Standards Documents

FIBER NETWORK COMPREHENSIVE PLAN

The sections below summarize the major work elements and findings that resulted from the development of the Fiber Network Comprehensive Plan.

Infrastructure Existing Conditions Audit

The consultant team dedicated substantial resources to auditing and updating the current state of the City's infrastructure with an eye towards identifying the strengths and weaknesses of this existing infrastructure, and how this matches up with the City's interest in providing additional fiber/internet services to the community. This inventory included data collection and organization, field inspection, using the City's fiber network management software to update and trace fiber strands through the network, and updates to the City's geographic information system data. This work resulted in the following Inventory Summary on the current state of the fiber network:

- System appears to be supporting the needs of the City
- Vault, splice and cable management standards need to be implemented throughout
- Spare fibers may be useful in creating enhanced resiliency for City applications
- Current underground fiber network is not ready to support private network operators
- Certain aerial routes may offer opportunity for dark fiber leasing

Identify Locations for New and Replacement Fiber Infrastructure

As part of this step in the plan development, the consultant identified network gaps in order to address the network goals of providing enhanced redundancy and resiliency for current fiber network, expanding Wi-Fi capabilities in the City, and generating revenue from leasing fiber network capacity. The primary issues to overcome were the current network lacks the ability to support carrier class service and routes with the capacity to support a ring architecture. In order to address these issues with the fiber infrastructure it will be necessary to upgrade existing streetlight conduit and vaults, and augment fiber strand capacity in routes that are currently exhausted.

This part of the planning effort also identified long-term routes that are required for redundancy and resiliency, even to continue to support the City's current needs. It also finalized the list of streetlight infrastructure that needs to be upgraded and the list of existing routes that need new fiber capacity. The outcome of these efforts is a Long-Term City Fiber Needs Map.

Identification of Operational Resources

A key part of developing the Fiber Network Comprehensive Plan was identifying potential service strategies that would further utilize the City's fiber assets. Three possible service strategies were identified for evaluation:

1. Middle Mile Data Service
    - Scenario 1A: Lease dark fiber strands to Service Providers
    - Scenario 1B: Lease lit fiber circuits with capacity from 1Gbps – 100Gbps to commercial entities, which would also include leasing dark fiber
2. Scenario 2: Last Mile Broadband (includes Scenario 1B)

Each of these scenarios were evaluated to determine what the City could potentially charge for the service, what the infrastructure and data needs/expectations would be, and what staffing and operation resources and procedures would be needed and how much they would cost.

Funding Opportunities to Serve Unserved and Underserved Areas

The consultant evaluated opportunities to serve unserved and underserved areas by evaluating state and federal grant funding opportunities through the American Rescue Plan Act (ARPA); the Broadband Equity, Access, and Deployment Program (BEAD); and ReConnnect Program. Although these programs offer significant funding resources, based on the Federal Communications Commission's (FCC) criteria and resulting National Broadband Map all areas within the City of Bellingham are considered "served" and are therefore, not eligible for any of these funding sources.

Community Outreach

The consultant team conducted market research within both the residential and large business segments. The research design for the residential segment involved conducting both phone and online surveys in January of 2024. The survey resulted in 395 phone survey completes and 1,127 online survey completes, for a total sample of 1,522 responses. An industry-standard research methodology was used to reduce bias and ensure a statistically significant survey outcome with a sample error of ±2.5%.

Separately, Uptown conducted research within the large business and institutional segment to understand the needs of this market. A total of eight in-depth interviews were conducted for this purpose. These interviews identified fiber availability, capacity needs, performance criteria, current price levels, and the prevalence of contracts. It also evaluated the potential for the city to serve this market.

Below is a summary of residential quantitative research findings:

- 98% of households use Internet at home with 86% using a wired connection. Comcast is the dominant provider.

- Household income below $50k slightly reduces incidence of a wired Internet connection. For lower income households that do have Internet, subscribed speeds are significantly lower than higher income homes.
- Overall Internet satisfaction score is 5.7 on a 1-10 scale. The percentage of very satisfied households (rating 9 or 10) is 11% overall due to dissatisfaction with price and customer service.
- Lower prices is the predominant need, followed by improved speed, reflecting a desire for better Internet value.
- 49% of households state their ideal Internet speed would be 1G or higher. This increases to 69% among those who would definitely subscribe.
- 10% of Bellingham households are participating in the Affordable Connectivity Program (ACP) and may be subject to losing the $30 monthly discount within the next 1-2 years.
- About 50% of households currently are underutilizing Internet capacity due to affordability issues.
- The forecasted take rate for 1G Internet priced at $70/month is 38% after overstatement adjustment. This take-rate benchmarks above average compared to other studies.
- The City is the preferred provider by 46% of households. This increases to 72% among those who would definitely subscribe.

Below is a summary of large business qualitative research findings:

- Most firms have sufficient fiber and capacity available to them, and satisfaction levels with the incumbents are above average.
- Data and broadband service needs are being met, but firms will consider city fiber infrastructure for a data connection if offered.
- Some firms do not have a backup circuit or protection on their connection, creating an opportunity for the city to provide an additional circuit if physically diverse from the current circuit. Route diversity and lower price are key switching factors.
- Many firms would require the city, or its operating partner, to include a Service Level Agreement providing financial recourse should network performance fail to meet typical industry standards

Financial Analysis Summary for Fiber Services

The final step of the Consultant's work was to perform a financial analysis of the three possible service strategies that took into account the current state of the City's fiber network infrastructure, the evaluation of potential funding sources, and the data collected about community needs and interest in utilizing a City provided service. This financial analysis for fiber services resulted in the following conclusions:

1. Local market construction costs within the proposed service area are expensive and upgrading and expanding the City's existing network requires significant capital investment.

2. Federal infrastructure grant dollars, while significant and timely, would not be available within city limits due to a lack of eligibility based on incumbent service offerings. Traditional financing using long term debt, working capital loans, and equity would be required.
3. Across the three scenarios studied, the Consultant conclude the following regarding the financial feasibility of each:
    - **Dark Fiber Leasing** – Not financially feasible as operating cash flow is not positive and would require ongoing budget transfers to remain in operation.
    - **Leased Access** – Not financially feasible as operating cash flow is not positive and would require ongoing budget transfers to remain in operation.
    - **Last Mile/Fiber-to-the-Home** – While operating income is positive, the $200 million bond debt service costs preclude financial feasibility. To sufficiently alleviate debt service costs, a $90 million upfront equity investment would be required in addition to a $57 million bond.

Conclusions

The Municipal Fiber Network Plan describes a fiber network that was built opportunistically and economically, and while it adequately serves the City's needs today, it is in need of investment to ensure that it provide redundancy and remains resilient into the future to serve its current customers (the City and other public agencies). Much of the City's infrastructure was not implemented with the intent of providing "carrier class" service to businesses and/or residents, therefore the existing infrastructure is of limited utility in expanding into new markets and services. This means that much of the existing fiber infrastructure would need to be rebuilt and significantly expanded to serve these other needs.

Although there is significant interest in the community, particularly for last mile/fiber-to-the home services, the upfront investment that is necessary by the City is financially infeasible without outside financial support, which would most likely be provided by the Federal government. Unfortunately, the City does not meet the FCC's criteria to qualify for Federal funding. One of the main reasons the City does not qualify for Federal funding, is that our community is served by a number of incumbent internet service providers (ISPs), although it is important to note that customer satisfaction in these services is low. Because of this, it is not recommended that the City use its limited funding and staffing resources to provide fiber services to entities outside the City and its public partners.

Recommendations

Even though none of the scenarios analyzed is financially feasible, the City and its agency partners benefit significantly from the City's fiber network infrastructure. In order to serve the City into the future upgrades and expansion of the existing infrastructure need to be performed to improve redundancy and resiliency and to support the city's

needs in the future. The consultant and City staff recommend the following steps as funding is identified:

- Develop network rings for sites supporting critical City operations.
- Upgrade streetlight conduits and vaults to safely house fiber cable and closures.
- Augment fiber strand capacity in routes that are currently exhausted.
- Maintain and update the City's Long-Term Fiber Needs Map to ensure we install conduit with projects within City right of way.

RECOMMENDATION ACTION:

Move to approve resolution adopting elements of the 2024 Fiber Network Comprehensive Plan in order to improve fiber network redundancy and resiliency and to support the City's needs in the future.

Fiber Network Comprehensive Plan

City Council

September 30, 2024

Outline

- Background – Existing Fiber Network
- Objective & Scope for the Study
- Study findings
- Results of the fiber services options financial analysis
- Study Recommendations
- Steps going forward with the infrastructure upgrades to improve the network reliability for the City's use

Background – Existing Fiber Network

- Supports City services fire, police, water, wastewater, traffic signals and IT infrastructure
- Provides services to Bellingham Public Schools and WTA
- Supports the Whatcom Regional 911 services and the Whatcom County Sheriff's EOC

Study Objective

Develop a comprehensive capital and operations plan for the city's municipal fiber network to achieve "carrier class" capability by increasing redundancy and reliability through incremental infrastructure improvements.

The plan should improve the network's broadband capacity and services in a financially self-sustaining manner by providing leased conduit and/or dark fiber access to businesses, broadband providers, and other public organizations.

Study Scope

- Update Existing Infrastructure Documentation
- Identify Locations for New and Replacement Infrastructure
- Identify Operational Resources
- Identify resources to Replace and Renew Infrastructure
- Complete Financial Analysis
- Identify Opportunities to Serve Unserved and Underserved Area
- Create Fiber Construction, Documentation, and Standards Documents

Field Observations

- Issue – Vault Too Shallow
- Fix - Larger Vault



- Issue – Too Much Wire
- Fix - Larger Vault



- Issue - Splice Case Too Long
- Fix - Larger Vault or Smaller Splice Case



Study Findings – State of Current Network

- System is supporting City needs
- Vault, splice and cable management standards need to be implemented throughout
- Spare fibers will be used in creating enhanced resiliency for City applications
- Current underground fiber network is not ready to support private network operators

Study Findings - Leasing

- Conduit
  - The majority of the City's conduit infrastructure is not suitable for commercial fiber
- Dark Fiber – Underground Cable
  - Issues with the current conduit infrastructure would limit fiber capability
  - Micro-bends have a dramatic impact on performance
  - The City would not be able to offer service level agreements (SLAs)
  - Would likely not support > 10Gig fiber systems
- Dark Fiber – Aerial Cable
  - In better shape than underground fiber network
  - Fiber capacity on some routes connecting important hubs
  - The City could offer SLAs on these routes

Summary of Residential Research Findings (1 of 2)

- 98% of households (HH) use Internet at home, 86% with a wired connection. Comcast is dominant provider.
- HH income below $50k slightly reduces incidence of a wired connection. Lower income HHs that have Internet, subscribed speeds are significantly lower than higher income homes.
- Overall Internet satisfaction score is 5.7 (1-10 scale), dissatisfaction with price and customer service.
- Lower prices is the predominant need, followed by improved speed.

Summary of Residential Research Findings (2 of 2)

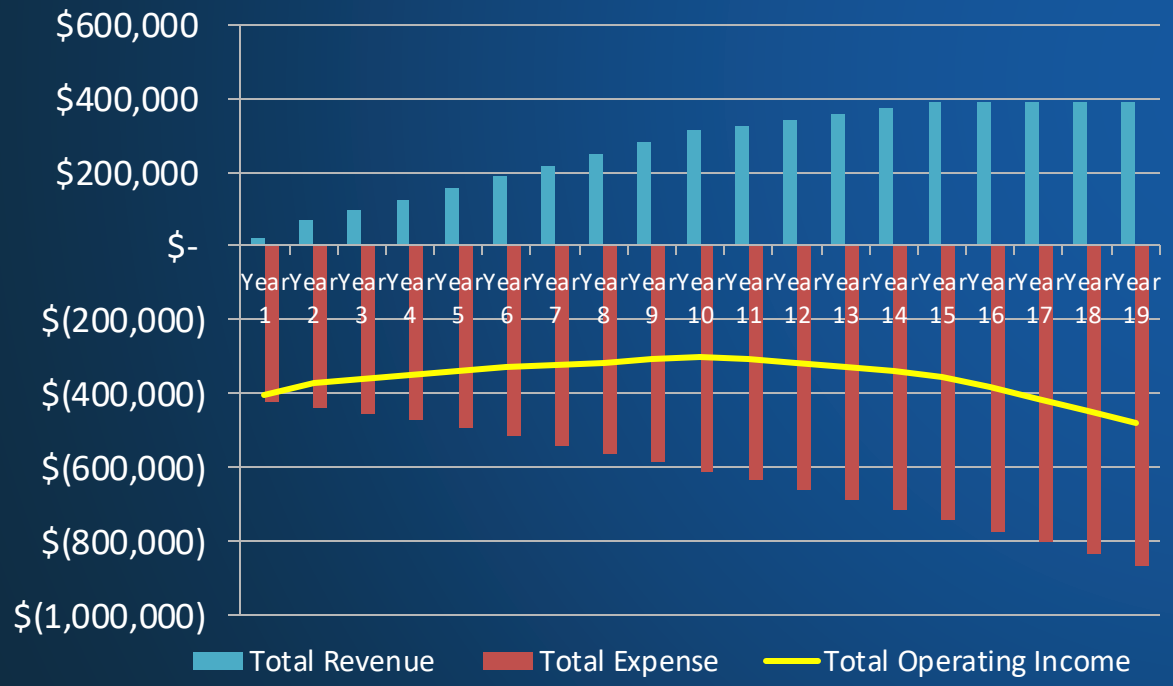
- 49% of HHs state their ideal Internet speed would be 1G or higher.
- 10% of HHs are participating in the Affordable Connectivity Program and may be subject to losing the $30 monthly discount within the next 1-2 years.
- About 50% of HHs are under-utilizing Internet capacity due to affordability issues.
- Forecasted take rate for 1G Internet priced at $70/month is 38% after overstatement adjustment.
- City is the preferred provider by 46% of HHs, increases to 72% among those who would definitely subscribe.

Summary of Large Business Research Findings

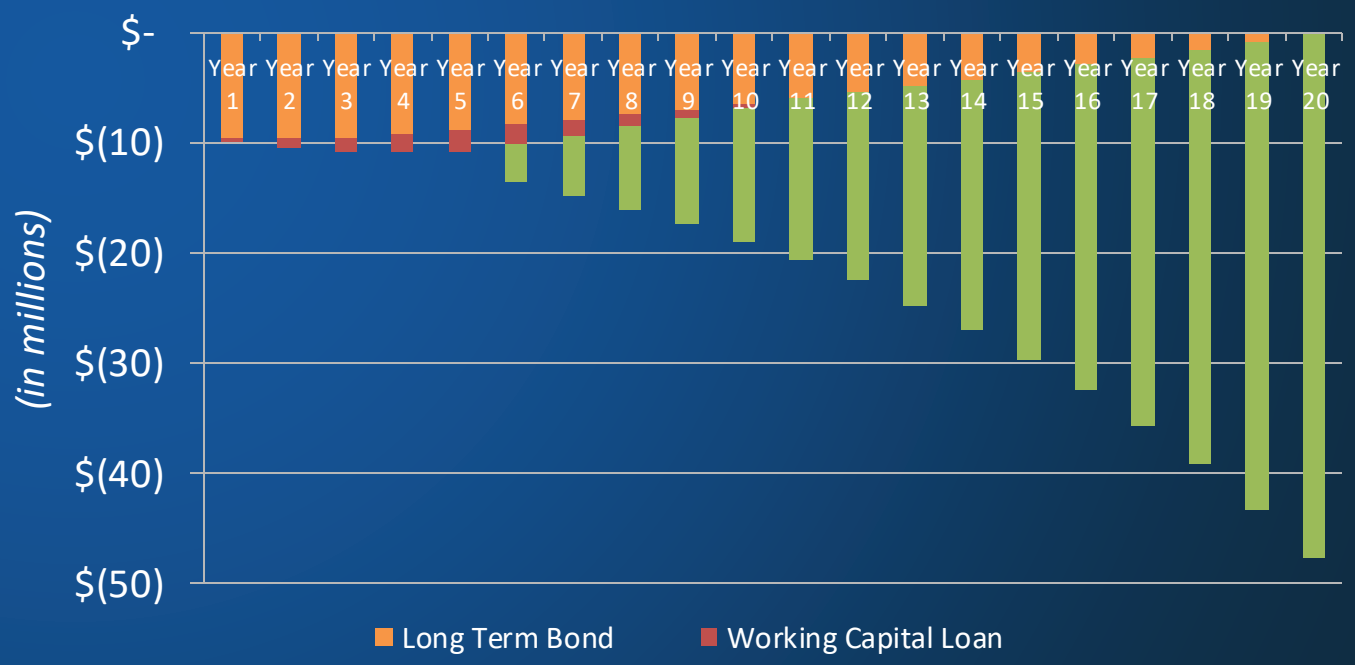
- Most firms have sufficient fiber and capacity available, and satisfaction is above average
- Firms would consider city fiber infrastructure, if offered
- Some firms do not have a backup circuit or protection on their connection, creating an opportunity, route diversity and lower price are key switching factors
- Many firms would require a Service Level Agreement
- Local market pricing for dark fiber leasing is in the range of $300 per strand mile per month

Fiber Services - Lease Dark Fiber

The anticipated operating income is not sufficient to generate positive cash flow over the 20-year pro forma forecast.
(This view excludes debt service costs)

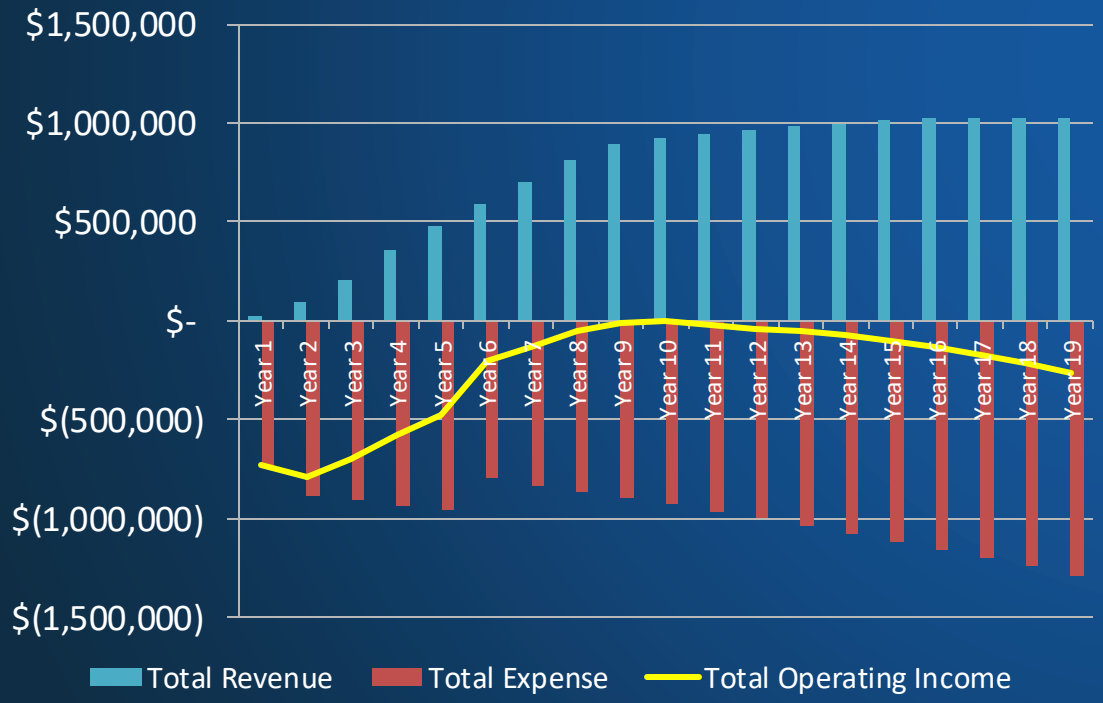


With insufficient operating cash flow, enterprise would need to continue borrowing funds since it would not be financially self sufficient.

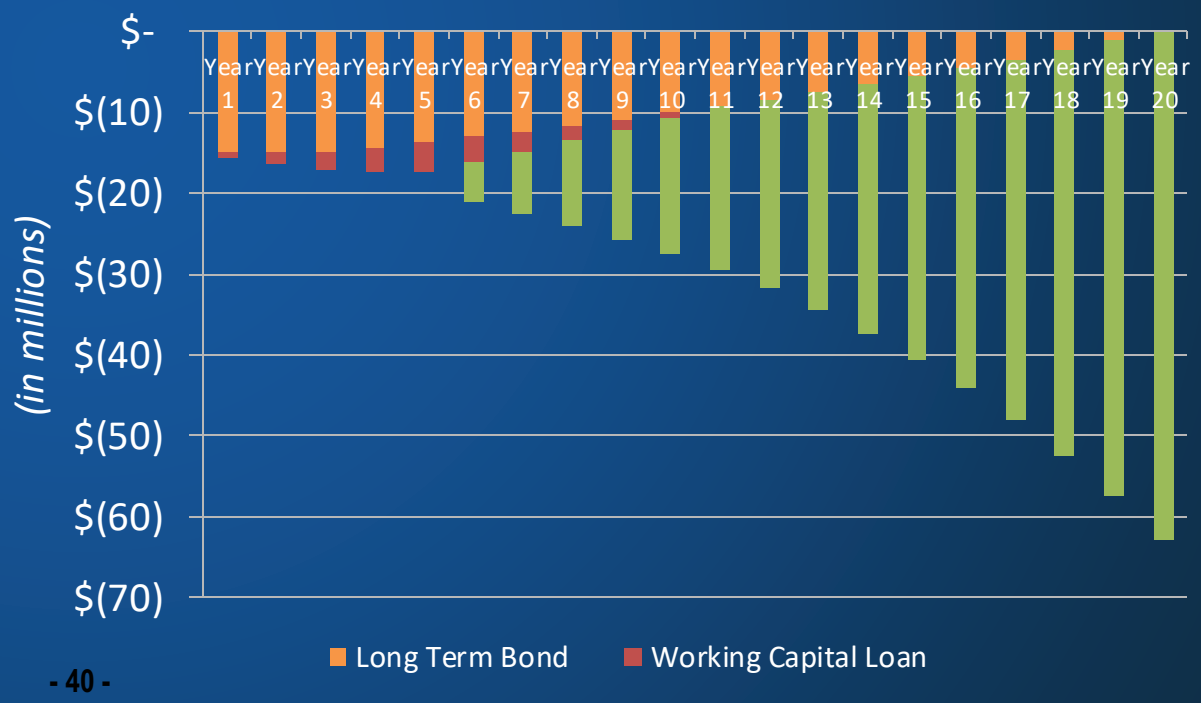


Fiber Services - Leased Access

While better than dark fiber, the anticipated operating income is not sufficient to generate positive cash flow over the 20-year pro forma forecast. (This view excludes debt service costs)

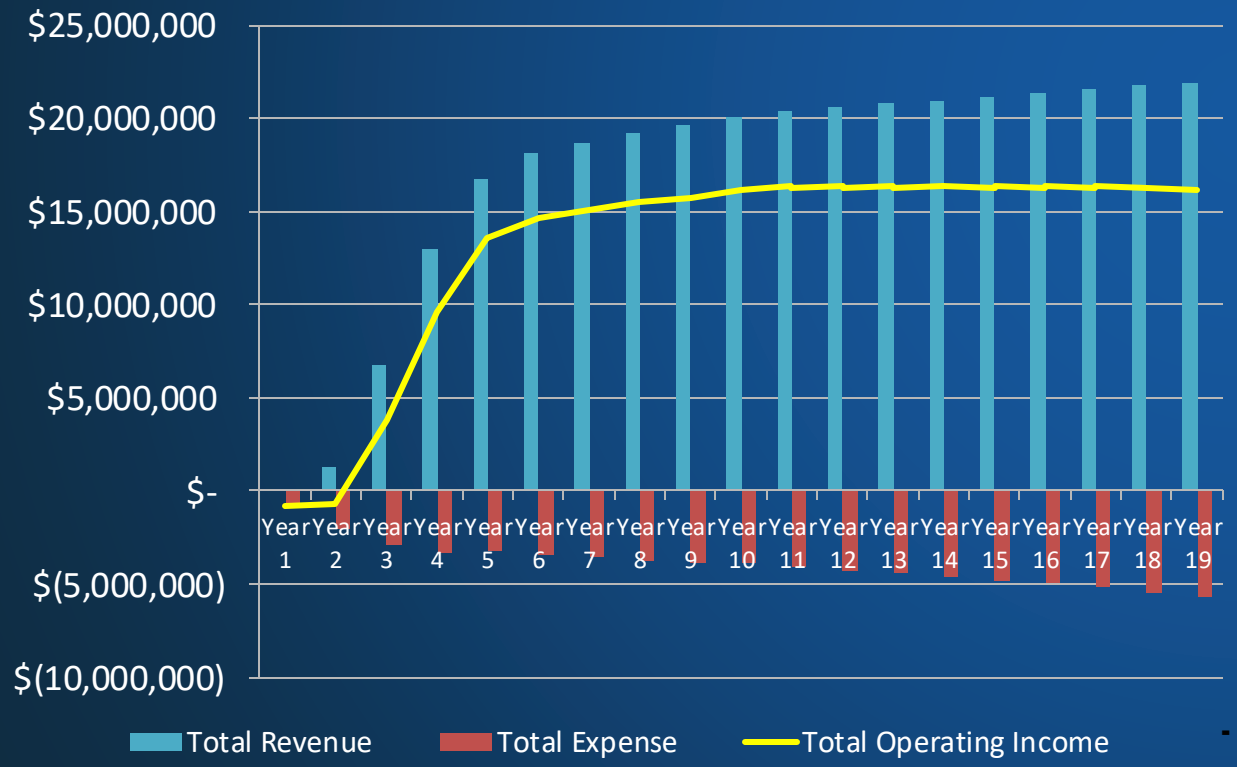


With insufficient operating cash flow, enterprise would need to continue borrowing funds since it would not be financially self sufficient.

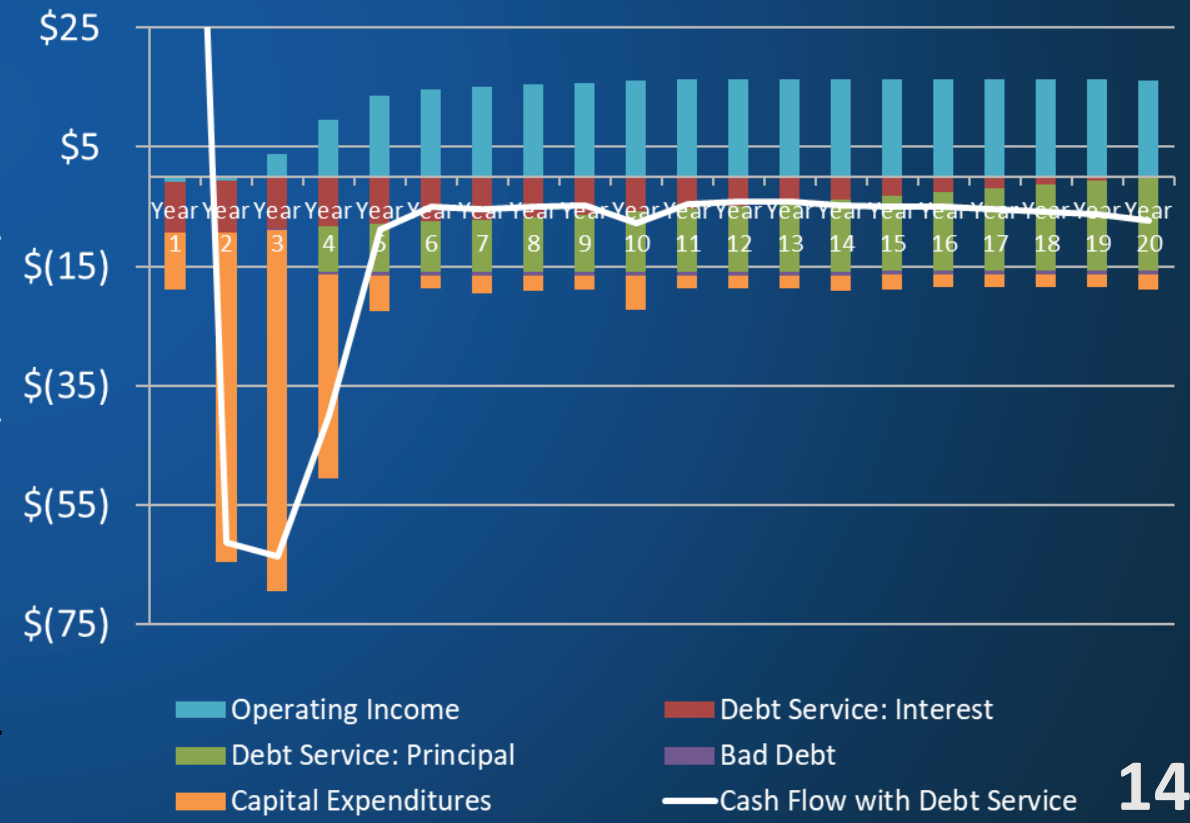


Fiber Services - Last Mile

Forecast Last Mile scenario, operating cash flow would go positive in year 3.
(This view excludes debt service costs)

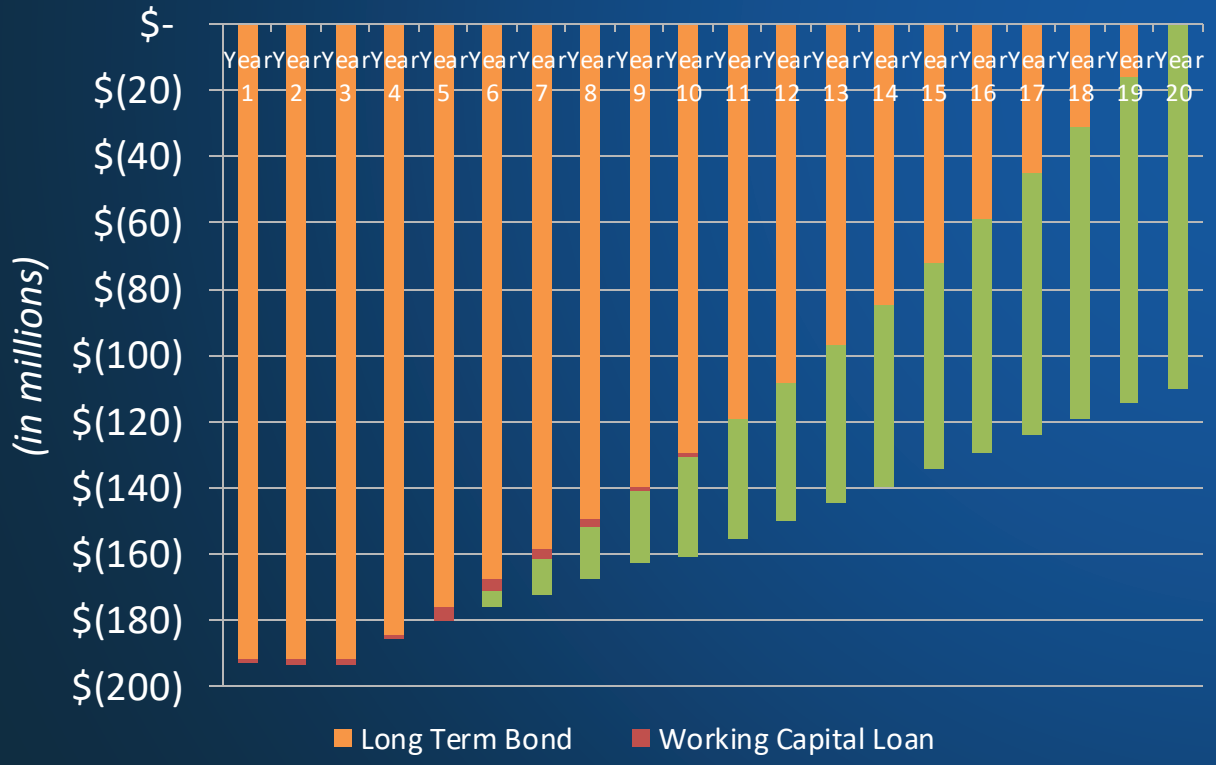


Although operating income goes positive in Year 3, cash flow including debt service never goes positive.

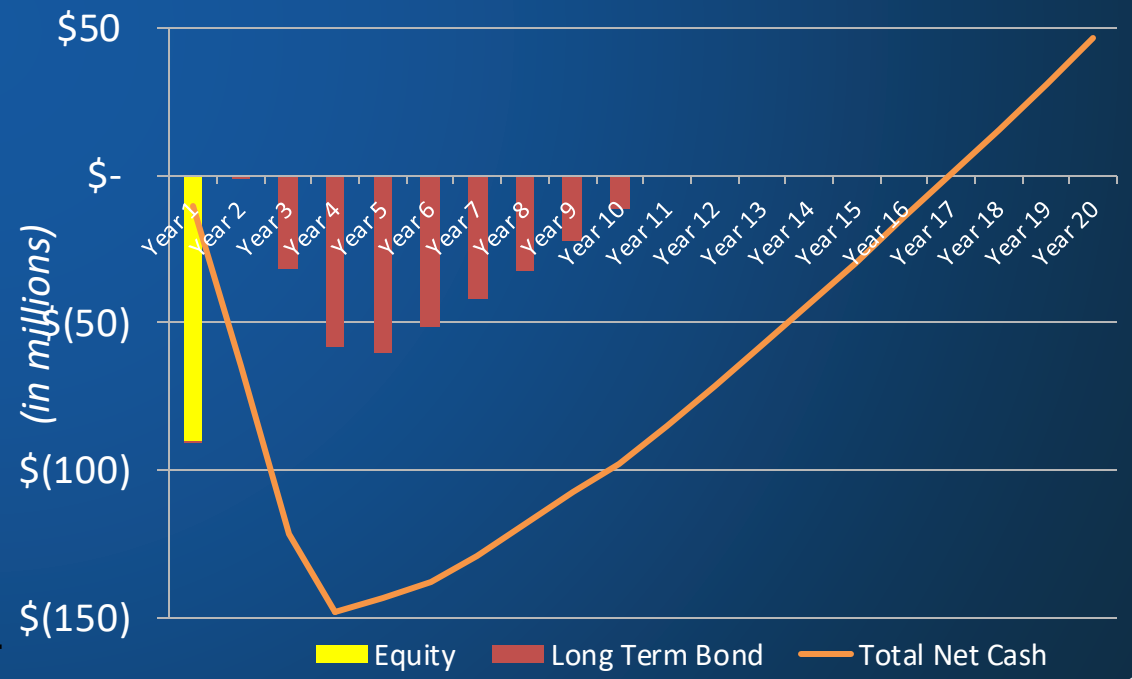


Fiber Services - Last Mile

With insufficient operating cash flow, enterprise would need to continue borrowing funds since it would not be financially self sufficient.



To achieve financial self-sufficiency, equity investment of $90M would be required , plus $57M 10-year bond. At Year 20, the enterprise would have a $50M net position against the $90M equity stake.



Financial Analysis Summary

1. Local market construction costs within the proposed service area are expensive and require significant capital investment
2. Federal infrastructure grant dollars not available within city limits due to a lack of eligibility based on incumbent service offerings
3. Financial feasibility across the three scenarios studied:
   - **Dark Fiber Leasing:** Not financially feasible (operating cash flow not positive, would require ongoing budget transfers)
   - **Leased Access:** Not financially feasible (operating cash flow not positive, would require ongoing budget transfers)
   - **Last Mile:** Not financially feasible (operating cash flow is positive, but $200M bond debt service costs preclude financial feasibility. $90M upfront equity investment would be required to sufficiently alleviate debt service costs)

Study Recommendations

- With current economic conditions and all three scenarios studied requiring on-going budget transfers to remain in operation, City should not pursue offering fiber services to entities outside of the City and its public partners
- Upgrades to the existing infrastructure need to be performed to improve redundancy, resiliency and to support the city's needs into the future
  - Develop network rings for sites supporting critical City operations
  - Upgrade streetlight conduits and vaults to safely house fiber cable and closures
  - Augment fiber strand capacity in routes that are currently exhausted
- Maintain and update the City's "Long Term Fiber Needs" map to ensure conduit is installed with projects in the right of way (e.g. streets & water)

Long-Term Fiber Needs Map



Infrastructure upgrade plan

- Fiber Testing
  - Test all terminated fiber strands owned by the City
  - $144,000 budget estimate
- Infrastructure Upgrades – Hand Holes and Conduits
  - Upgrade hand hole locations to fiber standards
  - Prioritize fiber routes based on test results
  - 845 potential upgrade locations
  - $8,000,000 budget estimate
- Infrastructure Upgrades – Fiber Augmentation
  - Place a 96-144 fiber cable between Downtown and Fairhaven
  - $127,500 budget estimate

Fiber Network Comprehensive Study/Plan

Presented by: John Gaven
Fiber Optic Network Engineer, Public Works
360.778.7832 jmgaven@cob.org

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON, ADOPTING ELEMENTS OF THE 2024 FIBER NETWORK COMPREHENSIVE PLAN IN ORDER TO IMPROVE FIBER NETWORK REDUNDANCY AND RESILIENCY AND TO SUPPORT THE CITY'S NEEDS IN THE FUTURE

WHEREAS, the City Council established the Ad Hoc Broadband Advisory Workgroup (BAW) under Resolution 2020-31 on August 24, 2020, to advise the City on policy considerations related to municipal broadband services; and

WHEREAS, the BAW developed observations and recommendations that were adopted by City Council in Resolution 2023-05 on May 8, 2023; and

WHEREAS, City staff hired a highly qualified Consultant (Uptown Services LLC) to study the City's municipal fiber network and develop a Fiber Network Comprehensive Plan in order to help implement City Council Resolution 2023-05; and

WHEREAS, the Consultant scope of work to develop the Fiber Network Comprehensive Plan was consistent with the scope elements recommended by the BAW as well as the stated study objective; and

WHEREAS, the study objective for the Consultant's scope of work was to develop a comprehensive capital and operations plan for the city's municipal fiber network to achieve "carrier class" capability by increasing redundancy and reliability through incremental infrastructure improvements. The plan should improve the network's broadband capacity and services in a financially self-sustaining manner by providing leased conduit and/or dark fiber access to businesses, broadband providers, and other public organizations; and

WHEREAS, the Consultant, in coordination with City staff, completed the following scope elements:

- Updated existing infrastructure documentation
- Identified locations for new and replacement infrastructure
- Identified operation resources
- Identified resources to retain, replace, and renew infrastructure
- Identified opportunities to serve unserved and underserved areas
- Performed financial analysis
- Created fiber construction, documentation, and standards documents

in order to develop the Fiber Network Comprehensive Plan; and

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

WHEREAS, the Fiber Network Comprehensive Plan includes a Long-Term City Fiber Needs Map and Next Steps for Fiber Testing and Infrastructure Upgrades that the City can implement to increase redundancy and resiliency in the City's existing fiber network system; and

WHEREAS, the Long-Term City Fiber Needs Map and Next Steps for Fiber Testing and Infrastructure Upgrades were developed based on the findings from development of the Fiber Network Comprehensive Plan; and

WHEREAS, the Consultant and City staff presented the Fiber Network Comprehensive Plan, including the findings, Long-Term City Fiber Needs Map and Next Steps for Fiber Testing and Infrastructure Upgrades, to City Council members and members of the BAW in a Special City Council Meeting held on August 5, 2026; and

WHEREAS, members of the City Council and BAW that attended the August 5, 2026, Special City Council Meeting were able to ask questions and get clarification about the Fiber Network Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

1. The City will create, update and maintain a Long-Term City Fiber Needs Map that could be used to guide future installation of conduit and fiber optic cable to serve the City's long-term fiber needs.

2. Dependent on the identification of necessary available funding and the need to balance these priorities with other City priorities, the City will implement the following Next Steps for Fiber Testing and Infrastructure Upgrades, as contained in the Fiber Network Comprehensive Plan:
    - Fiber Testing
        - Test all terminated fiber strands owned by the City
        - $144,000 budget estimate (2024 estimate)
    - Infrastructure Upgrades – Hand Holes and Conduits
        - Upgrade hand hole locations to fiber standards
        - Prioritize fiber routes based on test results
        - 845 potential upgrade locations
        - $8,000,000 budget estimate (2024 estimate)
    - Infrastructure Upgrades – Fiber Augmentation
        - Place a new 96-144 fiber cable between Downtown and Fairhaven
        - $127,500 budget estimate (2024 estimate)

PASSED by the Council this _____ day of _____, 2024.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

_____
Council President

APPROVED by me this _____ day of _____, 2024.

_____
Mayor

ATTEST:_____
Finance Director

APPROVED AS TO FORM:

_____
Office of the City Attorney

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

Fiber Network Comprehensive Plan

for

The City of Bellingham, Washington

June 2024

Uptown Services, LLC

Dave Stockton & Neil Shaw, Principals

UPTOWN SERVICES, LLC

STUDY OBJECTIVE

Develop a comprehensive capital and operations plan for the city's municipal fiber network to achieve "carrier class" capability by increasing redundancy and reliability through incremental infrastructure improvements. The plan should improve the network's broadband capacity and services in a financially self-sustaining manner by providing leased conduit and/or dark fiber access to businesses, broadband providers, and other public organizations.

UPTOWN SERVICES, LLC

STUDY SCOPE

1. Update Existing Infrastructure Documentation
2. Identify Locations for New and Replacement Infrastructure
3. Identify Operational Resources
   - Services strategy
   - Staffing and Operational Resources and Procedures
4. Identify resources to Retain, Replace, and Renew Infrastructure (capex and opex)
5. Identify Opportunities to Serve Unserved and Underserved Areas
   - Opportunity to Qualify for Federal Grant Funds in Underserved Areas
   - Large Business Segment: Demand for lit and/or dark fiber transport
   - Residential Segment: Demand for fiber broadband
6. Complete Financial Analysis
   - Funding Sources
   - Pro Forma Scenario #1A: Middle Mile Dark Fiber Leasing
   - Pro Forma Scenario #1B: Middle Mile Leased Access (lit service)
   - Pro Forma Scenario #2: Last Mile Retail Broadband
7. Create Fiber Construction, Documentation, and Standards Documents

Task 1: Update Existing Infrastructure Documentation

Field Inspection and Infrastructure Audit

TASK 1 – UPDATE EXISTING INFRASTRUCTURE

- Data Collection and Organization
  - Collect GIS information
  - Develop understanding of basic network components
  - Prepare walkout maps for field inspection
- Field Inspection
  - Field inspection of key splice locations and cabinets
  - Audit of key patch panel locations at City node sites
- OSP Insight Analysis
  - Update patch panel port status based on results of field survey (Gaven)
  - Use tracing tools to determine spare fiber strands throughout the network
- GIS Updates
  - Update GIS vault feature status to reflect repair / replacement needs
  - Update GIS fiber feature status to reflect total used / available fibers
  - Update conduit features to reflect “fiber ready” status

DATA COLLECTION AND ORGANIZATION

- GIS Source Data
  - Vaults, conduits, cabinets, fiber splice points, fiber cable and patch panels
  - Limited information available in GIS feature sets
  - Most conduit and fiber features need to be redrawn to make them useful (operationally)
- OSP Insight
  - OSP Insight used to model fiber connectivity for the City network
  - System needs additional updates to accurately reflect current connectivity and fiber use
  - OSP Insight is not used to maintain or edit conduit and vault infrastructure
  - Process / content improvements will be needed to make this system more functional
- Third Party Sources
  - Third party fiber networks have not provided detailed information to the City
  - Source data from the previous study has not been disclosed to the City
  - The lack of disclosure did not come as a surprise to Uptown
  - Future discussions with fiber network operators should be based on specific routes and requirements

FIELD INSPECTION PROCESS

- Scope of Inspections
  - Vault-based splice locations connected to at least one 48 fiber (or higher) cable
  - Patch panels located in facilities on the core City fiber network
  - Fiber-specific field cabinets
- Splice / Vault Inspection Process
  - Prepared maps for each splice / vault location to be inspected (56 locations)
  - Pulled vault lid, noted conduit condition and noted fiber placement
  - Noted overall “fiber-ready” condition relative to the ability to support more fiber cable(s)
  - Noted repair / rehab requirements to make the location fiber-ready
- Fiber Patch Panel Audit Process
  - Prepared inspection book for each panel to log results
  - Visited 10 node locations and identified the subject panels
  - Documented the status of each port – in use, open or not terminated
  - Flagged port status that did not match OSP Insight records
  - Provided results to John Gaven for updating in OSP Insight

OSP INSIGHT FIBER STRAND ANALYSIS

- Goal
  - Determine the likely number of fibers available on the City network
  - Available fibers could be used by the City to create more resilient network for existing applications
  - Available fibers could also possibly be leased to third party network operators
- Fiber Strand Analysis Process
  - Update OSP Insight fiber assignments according to patch panel audit
  - Use “Taper Report” tool for each cable segment in the City network
  - Count the number of fiber strands that are coded as “Used”
  - Log the actual number of available fibers based on the total number of strands in the cable segment
- Next Steps
  - Many traces showed conflicting coding for strands patched through multiple patch panels
  - Additional quality control should be performed for on each cable segment

FIELD INSPECTION / AUDIT RESULTS

- Vaults
  - 40 vaults were determined to be suitable as-is to support current and future fiber infrastructure
  - 15 vaults need to be replaced with a larger / deeper vault more suitable for fiber infrastructure
  - 5 vaults needed significant rework due to the presence of streetlight / traffic loop wires

- Splice Cases
  - Splice cases were predominantly PLP Coyote legacy clamshell devices
  - In general, these 22-inch splice cases should be replaced over time with smaller models
  - Cables exiting splice cases looked strained – resulting in out of standard cable bend radius
  - In some cases, installing a suitable fiber vault may be preferrable to changing the splice case

FIELD INSPECTION / AUDIT RESULTS

- Conduits
  - Most conduit used for fiber cable was originally installed for streetlight cable and traffic loops
  - 58 conduits entering a fiber vault were observed to be ready for more fiber with <= 50% fill rate
  - 12 conduits entering a fiber vault were observed to be suitable for fiber with 75% fill rate
  - 45 conduits entering a fiber vault were completely full and not capable of supporting more fiber

- Fiber Cabinets
  - All cabinets were well maintained and had room for additional equipment
  - Fiber and conduit documentation could be improved to reflect current connectivity

FIELD OBSERVATIONS

- Issue - Splice Case Too Long
- Fix - Larger Vault or Smaller Splice Case



- Issue – Undersized Vault
- Fix - Larger Vault

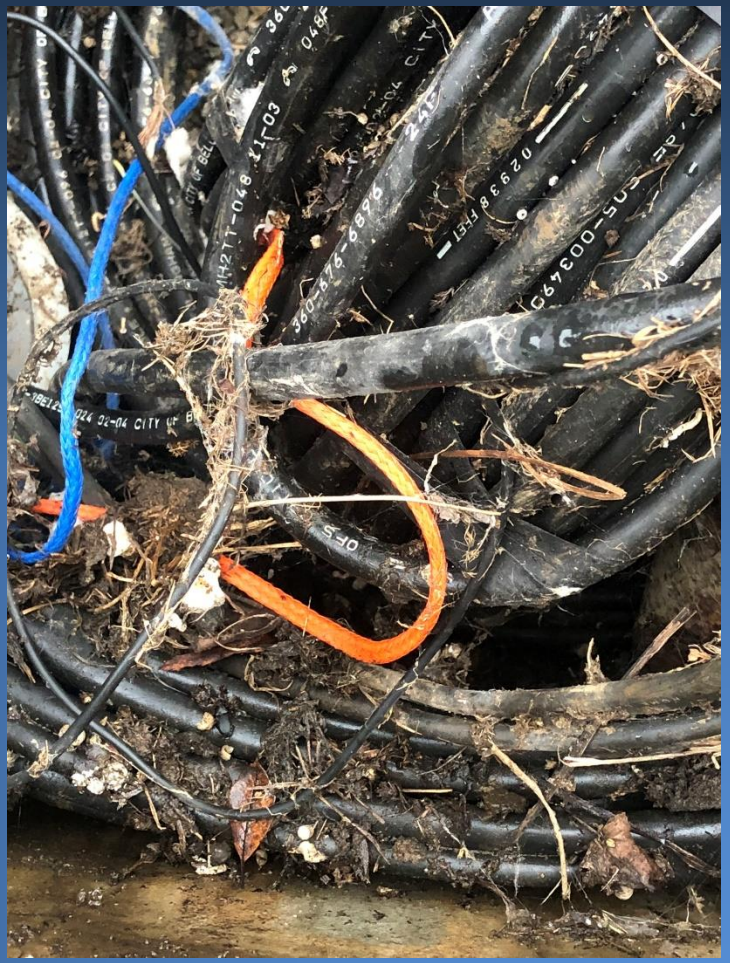


FIELD OBSERVATIONS

- Issue – Too Much Wire
- Fix - Larger Vault

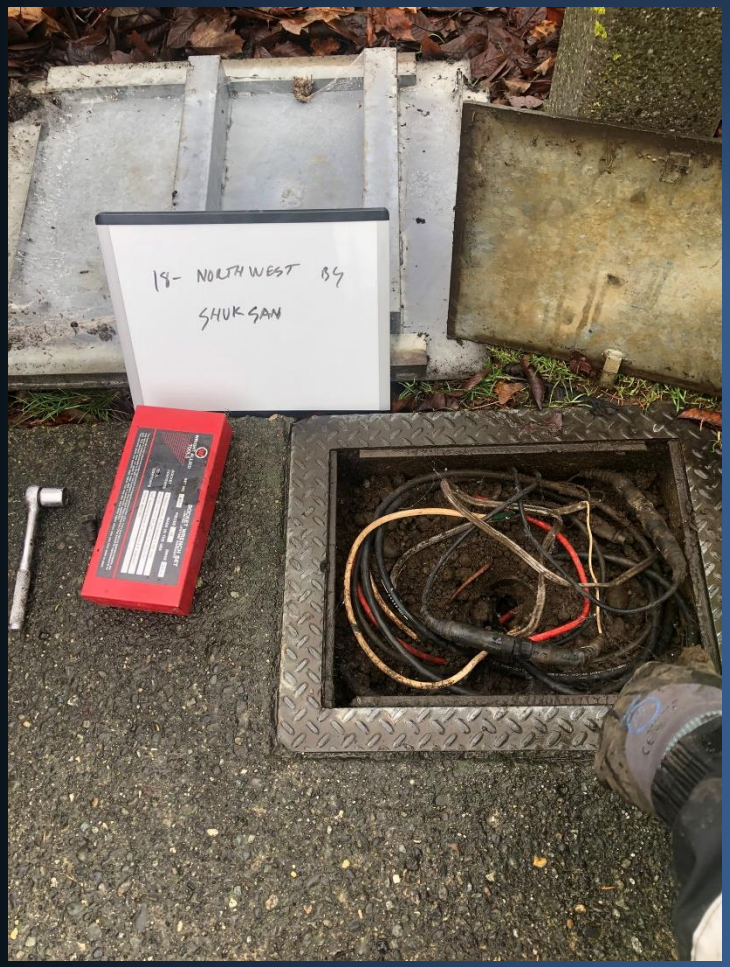


- Issue – Poor Cable Management
- Fix - Larger Vault



FIELD OBSERVATIONS

- Issue – Vault Too Shallow
- Fix - Larger Vault



- Issue – Fiber Cable Kinked
- Fix – Better Cable Management



FIELD OBSERVATIONS – FIBER CABINETS

- Issue – No Issues

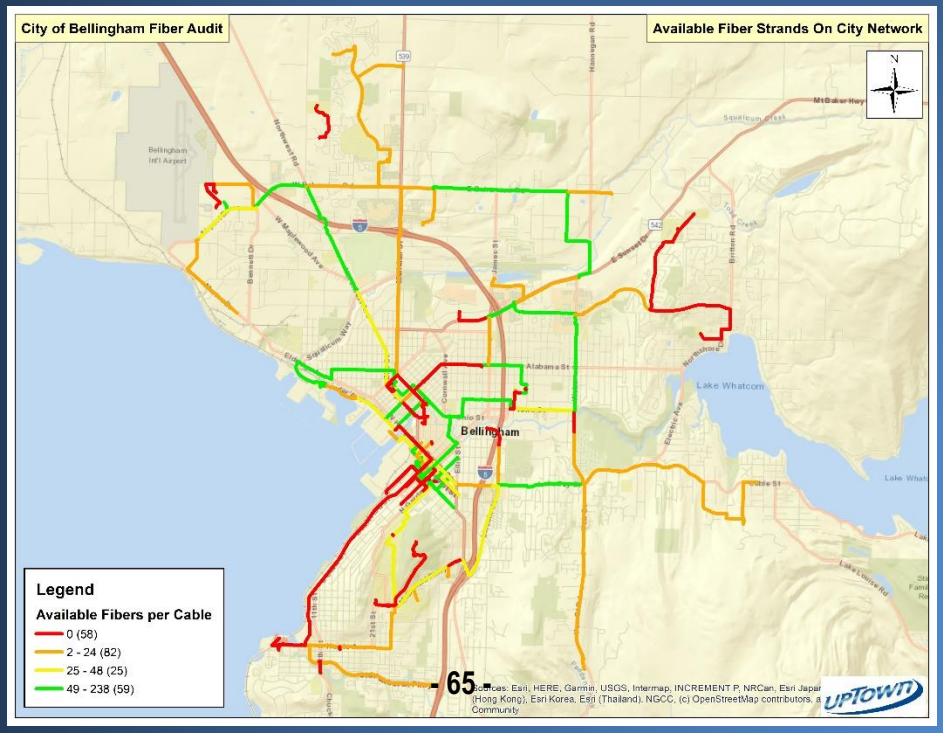


- Issue – No Issues



AVAILABLE FIBER ASSESSMENT

- Process
  - Uptown verified all cables (24F and higher) connected to a primary patch panel
  - It is assumed that at least 12 fibers would be set aside in every cable for future use by the City
- Results
  - 224 total cable segments with more than 12 fibers
  - 166 cable segments estimated to have at least 2 fibers available – 2,198 strand miles
  - 58 cable segments verified to have no fibers available after accounting for 12 spares in each run



AERIAL FIBER ASSETS

- Outside Plant (OSP) Characteristics
  - Most fiber cable is installed underground in conduit – 57.1 miles (1,305 available strand miles)
  - The rest of the fiber system is installed on utility poles – 14.4 miles (893 available strand miles)
- Implications of OSP Type
  - Underground installation typically offers the best option for security and reliability
  - Aerial placement is typically less expensive, but also prone to weather and traffic related outages





INFRASTRUCTURE VALUATION

- Conduit Leasing
  - The majority of the City's conduit infrastructure is not suitable for commercial fiber
  - The City would be taking on too much liability given the current state of the system
  - Certain opportunities may be possible on a case-by-case basis
  - Uptown would assume $0 revenue for future conduit leasing of existing assets

- Dark Fiber Leasing – Underground Cable
  - Issues with the current conduit infrastructure would limit the capability of the fiber
  - Micro-bends have a dramatic impact on the performance of fiber transport systems
  - The City would not be able to offer service level agreements (SLAs)
  - The existing underground fiber network would likely not support > 10Gig fiber systems
  - Certain opportunities may be possible on a case-by-case basis
  - Uptown would assume $0 revenue for underground dark fiber leasing

- Dark Fiber Leasing – Aerial Cable
  - Aerial fiber is in better shape the underground fiber network
  - City has aerial fiber capacity on some routes connecting important hubs
  - The City should be able to offer service level agreements (SLAs) on these routes

INVENTORY SUMMARY

- State of Current Fiber Network
  - System appears to be supporting the needs of the City
  - Vault, splice and cable management standards need to be implemented throughout
  - Spare fibers may be useful in creating enhanced resiliency for City applications
  - Current underground fiber network is not ready to support private network operators
  - Certain aerial routes may offer opportunity for dark fiber leasing

- Next Steps
  - Capital budget for near term fixes - vault and splice issues
  - Evaluation of existing City departmental network architectures
  - Identification of opportunities to create redundancy with available fiber strands
  - Development of construction standards for future network expansion
  - Long term strategy for ongoing upgrades of existing fiber network

Task 2: Identify Locations for New & Replacement Infrastructure

TASK 2 – NETWORK GAP ANALYSIS

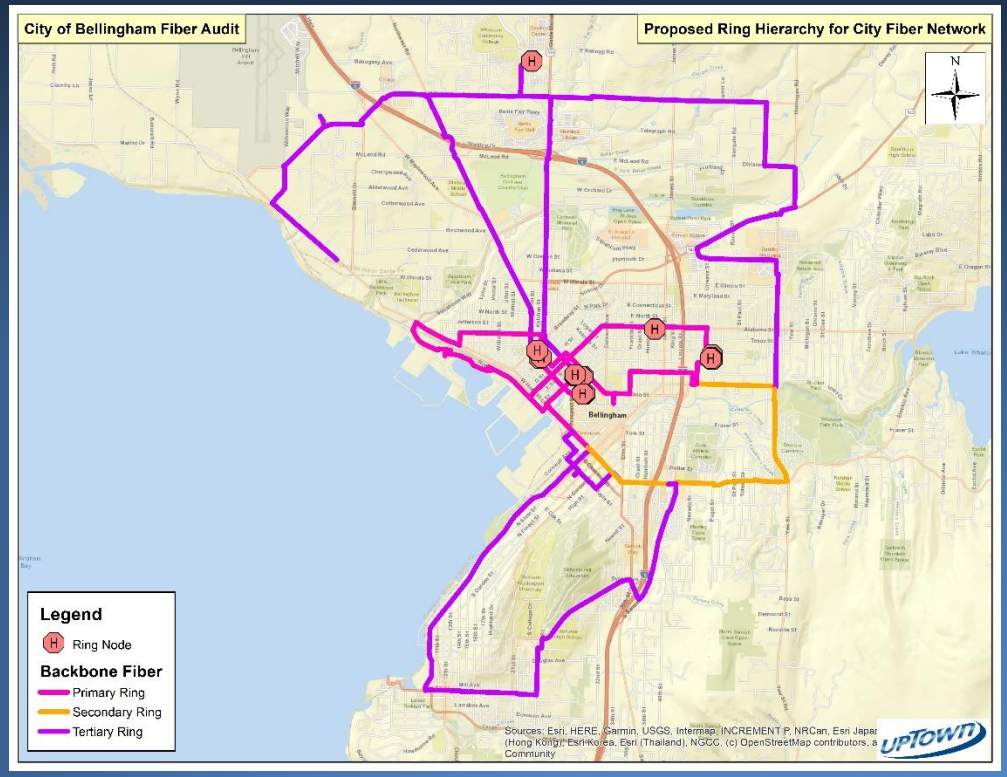
- Key Network Goals
  - Provide enhanced redundancy and resiliency for current fiber network
  - Expand Wi-Fi capabilities in the City
  - Generate revenue from leasing fiber network capacity
- Primary Issues to Overcome
  - Current network lacks the ability to support carrier class services
  - Certain network routes lack the capacity to support a ring architecture
- Overcoming Obstacles to Meeting City Goals
  - Upgrade streetlight conduits and vaults to safely house fiber cable and closures
  - Augment fiber strand capacity in routes that are current exhausted

FIBER NETWORK IMPROVEMENT PLAN

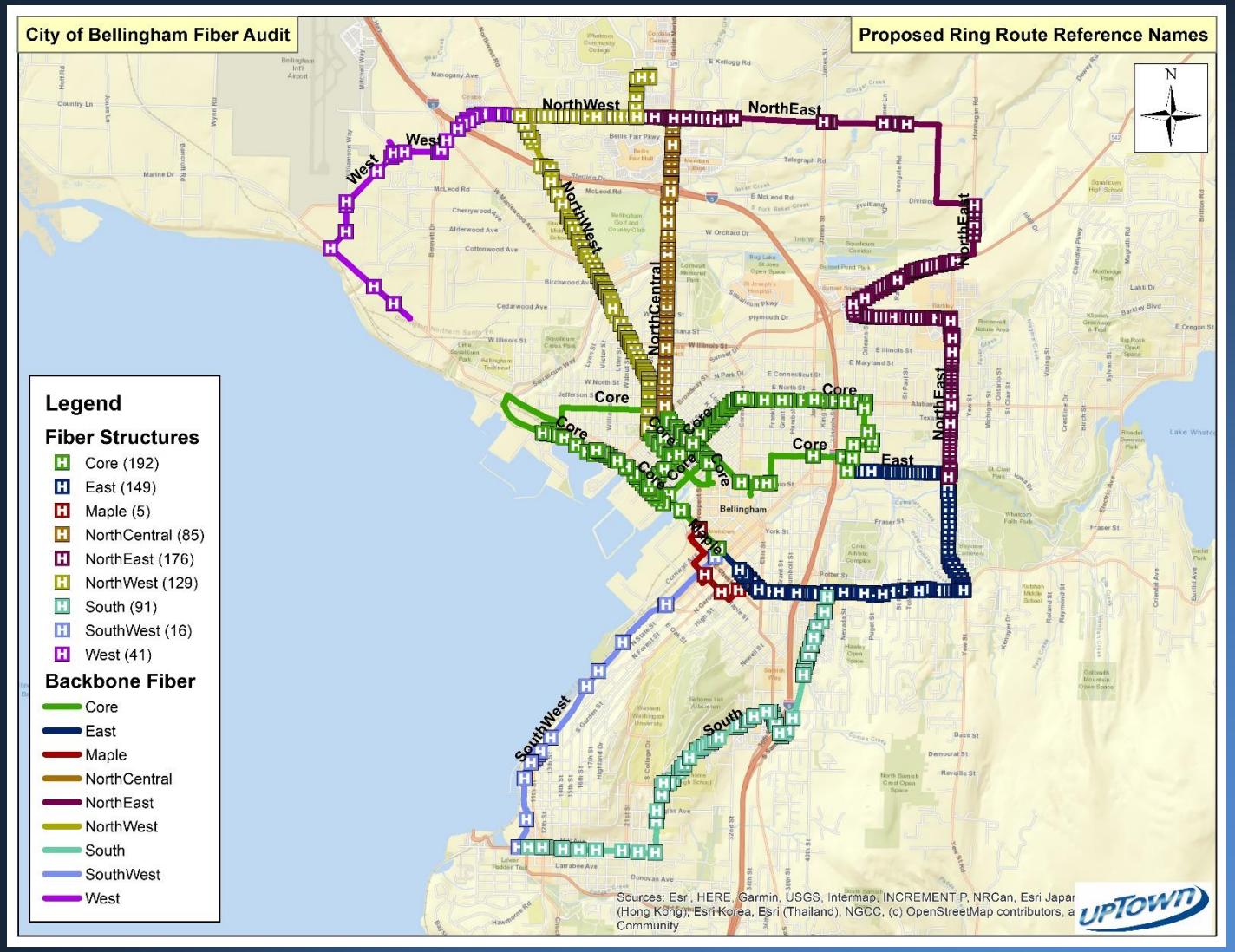
- Define Long Term Routes Required for Redundancy and Resiliency
  - Identify main routes that will provide the foundation for implementing ring technology
  - Characterize routes according to network hierarchy and timing (priority)
  - Most routes are in place today, but gaps do exist
- Detailed Testing of Existing Fiber Network
  - Complete testing at the fiber strand level
  - OTDR testing (fiber traces) will identify trouble spots in the system
  - Trouble spots will likely be points where cable is kinked or bent beyond specifications
- Finalize List of Streetlight Infrastructure to be Upgraded
  - All shallow or small streetlight handholes are assumed to be upgrade candidates
  - Test results will reveal obvious issues
  - Some streetlight structures should be upgraded regardless if too congested
- Finalize List of Routes Requiring New Fiber Capacity
  - Spare fiber strands appear to be available in most proposed ring routes
  - At least one route on the southwest side of the City is out of capacity (fiber strands)
  - New fiber cable will need to be placed in this route after the vaults have been upgraded

PROPOSED RING SEGMENTS

- Primary Rings
  - Connects to critical facilities
  - City facilities
  - Data centers
  - Carrier Interconnection facilities
- Secondary Rings
  - Connects to Primary Rings
  - Connects to secondary sites
  - Connects to Tertiary Rings
- Tertiary Rings
  - Connects to Tertiary Sites
  - Connects to Primary Rings
  - Connects to Secondary Rings
  - May contain some collapsed ring sections



PROPOSED RING ROUTES



NOTES ON CAPITAL BUDGETING PROCESS

- Unit cost assumptions drawn from multiple sources
  - Recent bid results from Uptown clients that are deploying broadband networks
  - Other broadband operators in the region
  - Local outside plant experts
  - Local outside plant contractors

- Actual sources for this study
  - Anecdotal information from several clients in Oregon including Hillsboro and Clackamas
  - Local public works contractor – Sail Electric, Inc.
  - Local resources with construction experience in Bellingham and the region
    - John Gaven
    - Milissa Miller

NETWORK TESTING

- Fiber strand testing assumptions
  - Test all terminated fiber strands owned by the City
  - Complete standard OTDR testing from each patch panel port
  - Retain OTDR trace results
  - Review each trace and identify trouble spots for each strand

- Cost estimate
  - Ports to be tested – 2,400
  - Cost per trace to be paid to contractor - $40.00
  - Cost per trace review by contractor - $20.00
  - Total budget estimate - $144,000

STREETLIGHT HANDHOLE UPGRADES

- Streetlight Handhole Upgrades
  - Upgrade existing handhole to accommodate streetlight AND fiber infrastructure
  - Will require minimum 24x36x24 vault in most cases
  - Includes replacement of conduit sweeps to reduce bending stress on fiber cable
  - Will require contractors to complete this work given the number of locations
  - Conservative estimate of $9,500 materials and labor per location is assumed*

Route	Upgrades Required	Cost per Upgrade	Total Cost	Priority
Core	186	$9,500	$1,767,000	1
East	146	$9,500	$1,387,000	2
Southwest	16	$9,500	$152,000	3
South	87	$9,500	$826,500	4
Northeast	167	$9,500	$1,586,500	5
Northwest	121	$9,500	$1,149,500	6
Northcentral	85	$9,500	$807,500	7
West	37	$9,500	$351,500	8
Total	845		$8.0M	

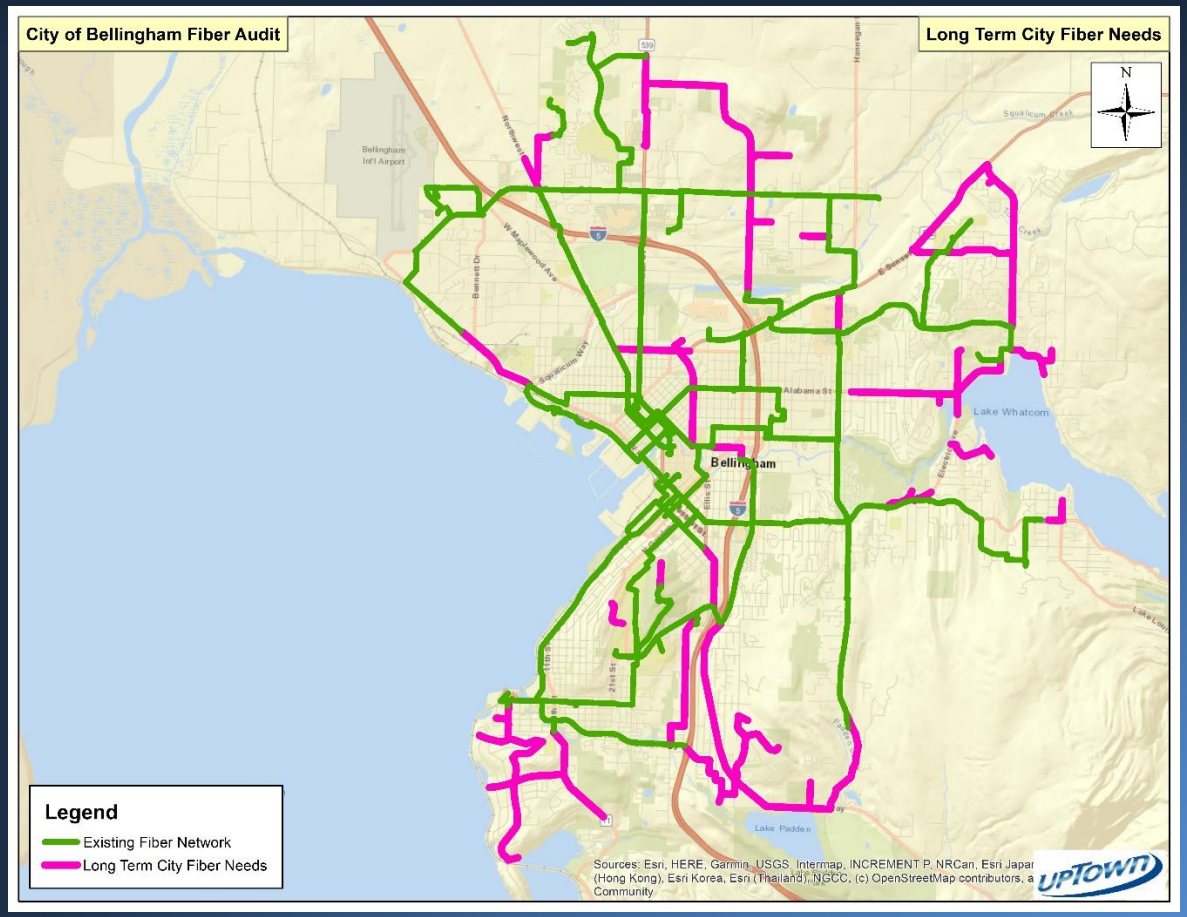
* - Estimate sourced from local contractor

NEW FIBER CABLE PLACEMENT

- Augment Existing Fiber Route
  - 36 fiber cable in Southwest route is fully exhausted
  - Route is critical to support strong ring options for the fiber network
  - City should place new 96 fiber cable in this route after the vaults have been upgraded
  - Conservative labor and materials estimate would be $5.00 per foot
  - 25,500 feet of new cable would be required for a total cost of $127,500



LONG TERM CITY FIBER NEEDS



- City has a wish list of new routes that would be beneficial for different City applications
- No current conduit is available on these routes, so new facilities would have to be installed
- City should build these routes by piggybacking on other public works projects (i.e. roads & water)

Task 3: Identify Operational Resources

Services Strategy for Last Mile and Middle Mile Scenarios

POTENTIAL RANGE OF FIBER SERVICES

There are three possible service strategies for the City to further utilize the fiber asset, subject to varying degrees of operational involvement and further infrastructure investment…

1. Middle Mile Data Services
   - Scenario 1A: Lease dark fiber strands to Service Providers
   - Scenario 1B*: Lease lit fiber circuits with capacity from 1Gbps – 100Gbps to commercial entities
     - Retail Model: City owns and operates the fiber system and acts as service provider
     - Wholesale Model: City owns and maintains fiber. Existing ISP partner acts as service provider
   - Construction of fiber laterals occurs after the sale, resulting in greater certainty of financial feasibility
   - Harder to predict revenue potential (market entrants and more complex needs)
2. Scenario 2: Last Mile Broadband (includes Scenario 1B)
   - Traditional fiber broadband provided to households and commercial entities
     - Requires full fiber buildout to “pass” all premises with fiber
     - Business model can be retail or wholesale
   - Construction of last mile fiber build occurs prior to the sale, resulting in lower certainty of financial feasibility
   - Easier to predict revenue potential (homogenous market and law of large numbers)

*Scenario 1B would also include leasing of dark fiber.

DARK FIBER LEASING RATES

- Proposed dark fiber lease fees reflect prices typical of urban areas. Differentiated fees for public sector entities are common within the municipal broadband sector and are recommended and we estimate average monthly revenue per strand mile at $325…

	Public*	Private
Single Strand	$300/mile**	$350/mile**
Additional Strands	$240/mile**	$275/mile**
Network Maintenance	Shared maintenance costs across fiber infrastructure owners	
*Public sector discounts are applicable to non-private sector leasing entities. **Fractional miles are prorated.		

LEASED FIBER ACCESS RATES

- Proposed dark fiber lease fees reflect prices typical of urban areas. Differentiated fees for public sector entities are common within the municipal broadband sector and are recommended. We estimate average monthly revenue per leased access connection of $1,500…

Leased Capacity	MRC – 3 Year Term	MRC – 5 Year Term	Restrictions
1G	Private: $1,200 ($1.20/Mbps) Public: $1,100 ($1.10/Mbps)*	Private: $1,000 ($1.00/Mbps) Public: $900 ($.90/Mbps)*	Subject to fiber availability. A non-recurring charge may be required for new construction. Resale to end-user business and households prohibited within city limits
5G	Private: $2,000 ($.40/Mbps) Public: $1,750 ($.35/Mbps)*	Private: $1,750 ($.35/Mbps) Public: $1,500 ($.30/Mbps)*	
10G	Private: $2,500 ($.25/Mbps) Public: $2,250 ($.225/Mbps)*	Private: $2,000 ($.20/Mbps) Public: $1,750 ($.175/Mbps)*	
> 10G	Custom Quote		
*Public sector discounts are applicable to non-private sector leasing entities.			

INCUMBENT RESIDENTIAL INTERNET

- CenturyLink presents both DSL and fiber Internet plans depending upon the service address used to check availability. The extent of fiber deployment is not known, but appears limited based upon address search results.
- Comcast appears to have fully upgraded its HFC plant to DOCSIS3.1 and can offer gig service. However, pricing is steep and a $30 premium is required to remove the standard data cap. In December 2023, Comcast announced upcoming broadband rate increases of $3/month to be implemented in January 2024.*

	Download	Upload	Price	Data Cap?	ACP?	Technology
CenturyLink	3M 6M 15M	500K 500K 750K	$50.00 $50.00 $50.00	No Cap	Yes	DSL
	500M** 940M**	500M 940M	$50.00 $75.00			Fiber
Comcast	75M 200M 400M 800M 1.0G 1.2G	2M 5M 25M 25M 30M 35M	Promotion / Month-Month / No Data Cap $19.99 / $61.00 / $91.00 $30.00 / $73.00 / $103.00 $55.00 / $83.00 / $113.00 $65.00 / $93.00 / $123.00 $75.00 / $103.00 / $133.00 $80.00 / $113.00 / $143.00	Yes. Unlimited data is $30 extra	Yes	Cable Modem (DOCSIS 3.1)

CenturyLink pricing per centurylink.com as of Nov. 2023. Comcast pricing from xfinity.com as of Nov. 2023.

*Source: NextTV "Comcast Set To Up Prices on Xfinity Cable Services ... Again" dated December 8, 2023.

**Not available in all areas.

ALTERNATIVE RESIDENTIAL INTERNET

- Four alternative providers have partially deployed either fixed wireless or fiber within the community…

	Download	Upload	Price	Technology
Quantum Fiber	500M 940M*	500M 940M	$50.00 $75.00	Fiber
Astound Broadband	100M* 500M* 940M* 1.5G*	Not Specified	$25.00 (24 month promotion)** $45.00 (24 month promotion)** $65.00 (24 month promotion)** $80.00 (24 month promotion)**	Fiber
Ziply Fiber	45M – 115M	7M	$50.00	DSL (resale)
	100M* 300M* 1G* 2G*	100M 300M 1G 2G	$40.00 $60.00 $80.00 $120.00	Fiber
Always ON	Not Specified		$149.99-$399.99 Base Fee*** + • $60/mo. for 25GB • $100/mo. for 100GB • $220/mo. for 1,000GB	Fixed Wireless
PogoZone	Not Specified		$35.00 / $50.00 / $65.00 / $85.00	Fixed Wireless

Quantum Fiber pricing per quantumfiber.com as of Nov. 2023. Astound Broadband pricing from astound.com as of Nov. 2023. Always ON pricing from alwaysonwifi.com as of Nov. 2023.

*Not available in all areas. **Requires subscription to Astound TV. ***One-time fee.

INCUMBENT COMMERCIAL INTERNET

- CenturyLink has DSL plans available with varying speeds (determined by distance from their Central Office). All speeds are priced at $50/month.
- Comcast has standard business Internet plans up to 1.25Gbps, but fees are high and initial promotional discounts taper off during the contract term. They do not use data caps for their commercial service, but equipment fees are expensive.

	Download	Upload	Price	Contract	Equipment Fee	Data Cap?	Technology
Century Link	6M 10M* 15M* 40M*	500K 750K 750K 3M	$50.00 $50.00 $50.00 $50.00	No		No Cap	DSL
Comcast	50M 100M 250M 500M 750M 1.25G	15M 25M 25M 30M 35M 35M	Auto Pay / Standard $49.00 / $59.00 $89.99 / $104.99 $119.99 / $134.99 $159.99 / $174.99 $234.99 / $264.99 $334.99 / $364.99	Yes, 2 years	$22.95 /month $22.95 /month $32.95 /month $32.95 /month $32.95 /month $32.95 /month	No	Cable Modem (DOCSIS 3.1)

CenturyLink pricing per centurylink.com as of Dec. 2023. Comcast pricing from business.comcast.com as of Dec. 2023.

*Not available in all areas.

RESIDENTIAL INTERNET PRICING & TERMS

- Municipal broadband operators under the retail business model typically price their entry-level tier at ≈$70. Service providers under the wholesale business model typically price their entry-level tier at $80-90.
- Service pricing should provide greater value than incumbent offerings as determined in the research survey findings.
- The City's Internet service would not have data caps, nor early termination fees and would embrace net neutrality.

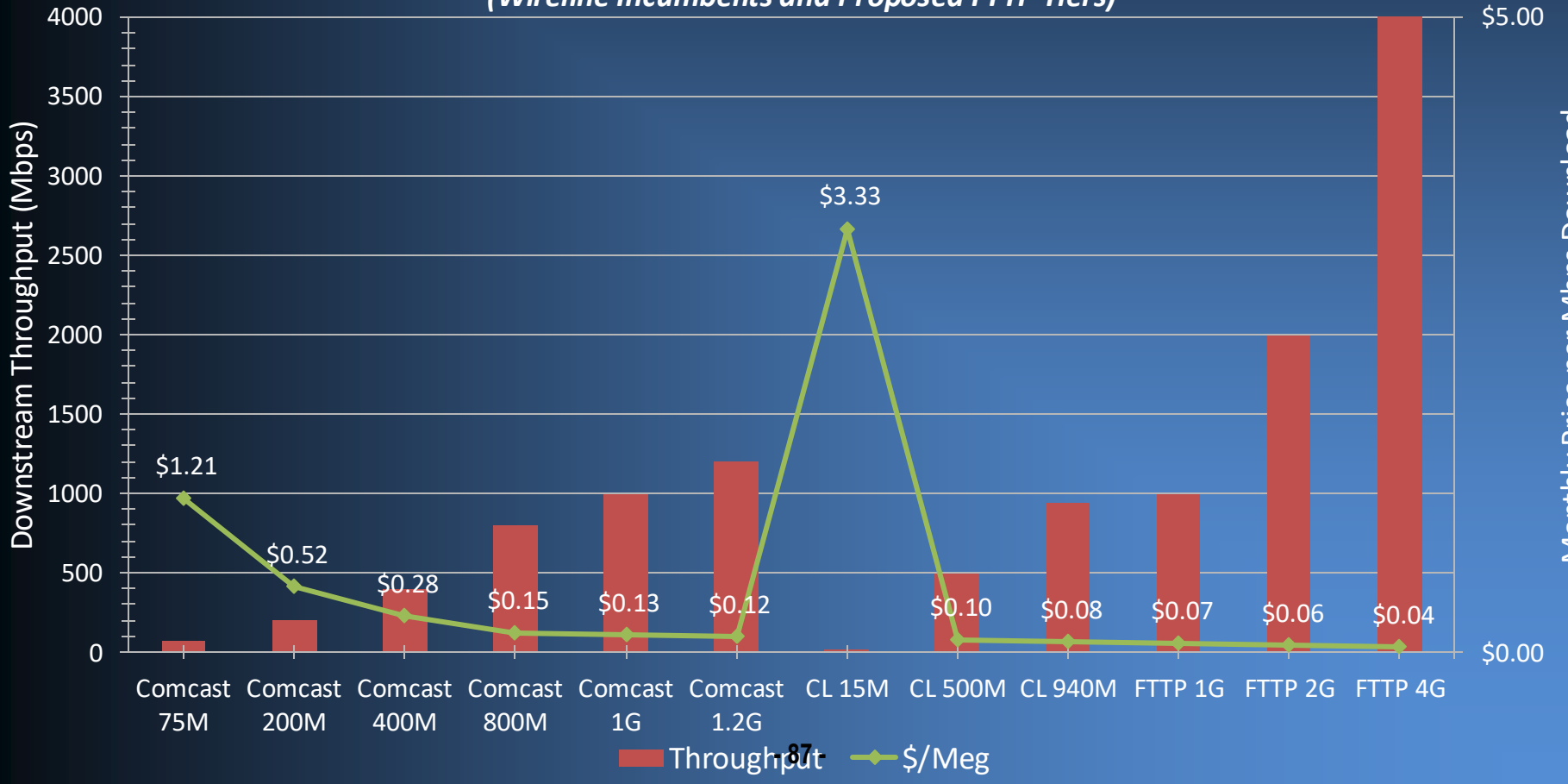
Internet Tier Download / Upload	Monthly Price	Proposed Service Terms
1G / 1G	$70	Data Cap: No Term Agreement: No Termination Fee: No
2G / 2G	$110	
4G / 4G	$150	
Wireless Gateway Upgrade	Add $10	

RESIDENTIAL INTERNET VALUE

- We measure value as the price per Mbps provided. Comcast metrics include additional fees to eliminate the data cap for comparison to CenturyLink and the proposed FTTP offerings. The CenturyLink 500M and 940M tiers are only available where FTTP has been deployed…

Internet Downstream Throughput and Price per Mbps

(Wireline Incumbents and Proposed FTTP Tiers)



COMMERCIAL INTERNET PRICING & TERMS

Commercial services reflect a pricing premium to residential services. This reflects market conditions and traffic volume/users per connection. Multiple service options are available for complex accounts.

- Shared capacity connection over GPON
- No contract requirement and no SLA guarantees
- Can upgrade to symmetrical bandwidth and add BGP Routing (some tiers)

Proposed Standard Tiers Download / Upload	**Monthly Price**
100M / 20M *Add Symmetrical*	$80.00 *+ $50*
500M / 250M *Add Symmetrical*	$150.00 *+ $50*
1G / 500M *Add Symmetrical*	$200.00 *+ $50*
Custom Quote	

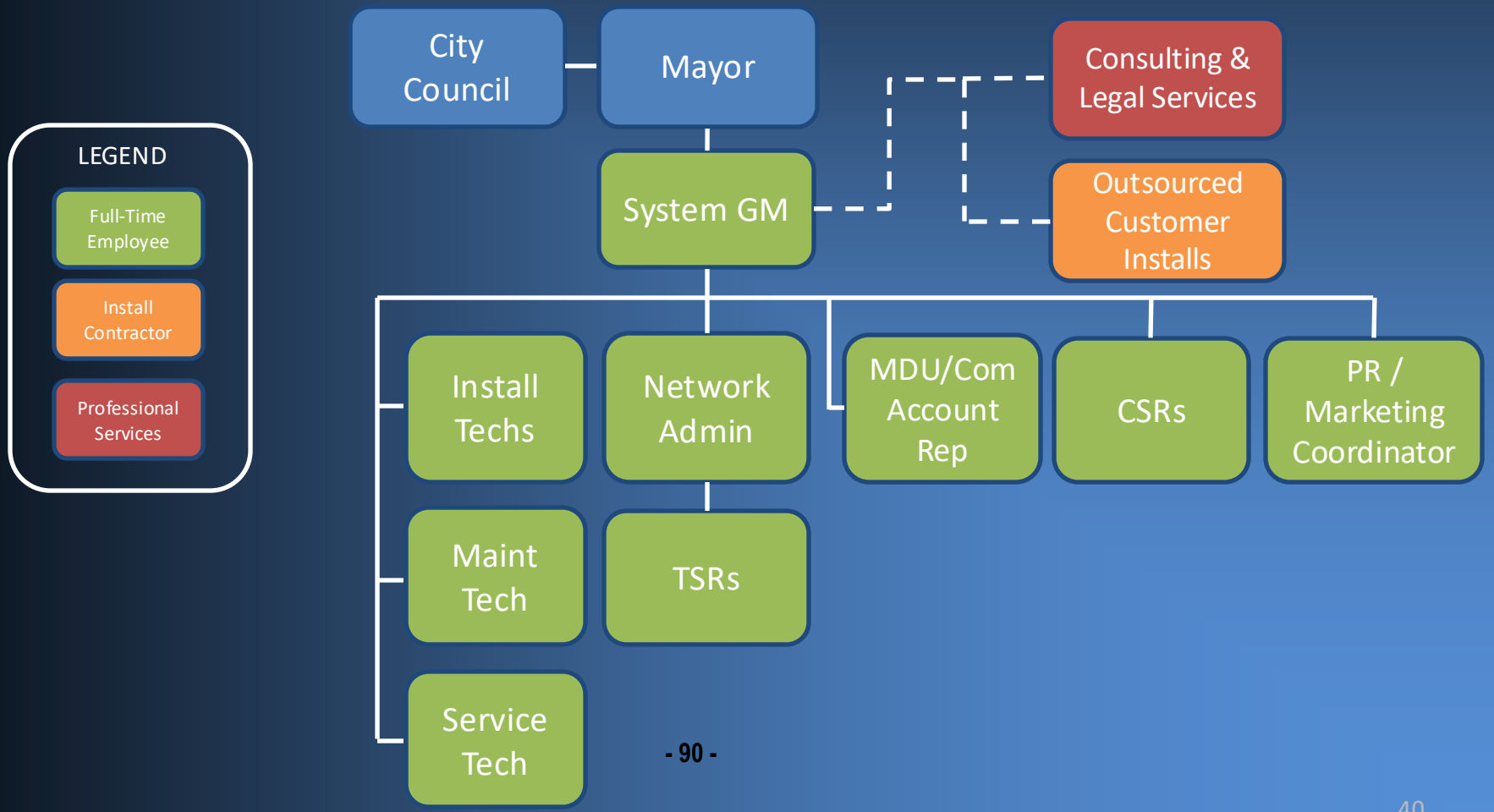
Task 3: Identify Operational Resources

Staffing and Operational Resources and Procedures

TYPICAL BROADBAND ORGANIZATION STRUCTURE

Contractor services can be utilized in the early years to complete some start-up tasks and avoid short term hiring:

- Legal: Bond counsel and legal start-up tasks
- Consulting: Implementation support during the start-up phase
- Installs: Initially outsourced and then internally staffed after install volume normalizes



INCREMENTAL HEADCOUNT BY SCENARIO

	Pay Scale*	Salary (unloaded)	Dark Fiber	Leased Access	Last Mile Retail
System GM	-	$160,000			1
Infrastructure Manager	-	$120,000		1	
Marketing Coordinator	Plan S Grade 3	$86,000			1
Commercial Account Manager	Plan S Grade 4	$91,000	1	1	1
Data Technician	-	$120,000			1
Network Design Engineer	-	$75,000	1	1	Contracted
Customer Service Supervisor	Plan S Grade 2	$83,000			1
CSRs	Hourly 8	$60,000			5
TSRs	Hourly 10	$65,000			5
Install Techs	Hourly 8	$60,000			5 (peak)
Maintenance Techs	Hourly 10	$65,000	2	2	1
Service Techs	Hourly 8	$60,000			4 (peak)
Year 5 Total FTE			**4**	**5**	**21**

MIDDLE MILE: STAFFING POSITION DETAILS

Position	Role	Staffing Entity	Compen-sation	Location
Infrastructure Manager	Lead manager responsible for all broadband operations and enterprise results. Prepares departmental budget. Negotiates contracts and manages bandwidth sourcing.	City	Exempt FTE	Onsite - desk space needed
Commercial Account Rep	Direct sales to 3rd part resellers (ISPs) and end user business accounts, including ROI analysis of fiber lateral construction. Single point of contact for all accounts excluding outages.			
Network Design Engineer	Responsible for designing and maintaining all fiber assets within GIS, including new fiber lateral construction, meet-me locations with ISPs, etc. Generates BOM for all construction projects.			
Maintenance Techs	Oversight and inspection of fiber lateral construction. Respond to and resolve outages and maintain all outside plant assets.		Non-Exempt Hourly	City garage /operations center

LAST MILE: STAFFING POSITION DETAILS

Position	Role	Staffing Entity	Compen-sation	Location
System GM	Lead manager responsible for all broadband operations and enterprise results	Varies by Business Model	Exempt FTE	Onsite - desk space needed
Marketing Coordinator	Develop and implement direct marketing and fulfillment materials, and manage advertising campaigns.			
Commercial Account Rep	Direct sales to business accounts and installation coordination and MDU ROE agreements.			
Network Engineer	Secondary responsible for all broadband electronics and systems			
Customer Service Reps	Phone and email support for work order creation, trouble tickets, billing (Tier 1)		Non-Exempt Hourly	
Technical Service Reps	Help desk support (Tier 2)			
Install Techs	Complete pre and premise installs	Install Contractor	Per Job	Contractor leased garage
Maintenance Techs	Resolve outage and maintain outside plant assets	Varies by Business Model	Non-Exempt Hourly	City garage /operations center
Service Techs	Complete service calls requiring a truck roll			

FTE LEVELS: DEDICATED FRONTLINE EMPLOYEES

- Customer / Technical Service Representatives (CSRs/TSRs)
  - CSRs handle inbound/office sales, order entry and first tier support
  - TSRs handle all second tier customer support, dispatch and service provisioning
  - Staffed at 1 FTE per 2k accounts growing to 4k by Year 5, but with minimum of 3 CSR and 2 TSR positions to ensure phone coverage. Supervisor position required if total CSRs and TSRs exceed 8 FTE
- Install Technicians
  - Installs are 2-phase with pre-install followed by separate premise install
  - Each Install Tech complete 2/day growing to 3/day by Year 5
- Service Technicians
  - Service techs fix subscriber problems
  - Service call volume equals 50% of all subscribers/year dropping to 25% by year 5
  - Each Service Tech can complete 4/day growing to 6/day by Year 5
- Maintenance Technicians
  - Network techs maintain the fiber system from the backbone to the network access point
  - Increases from two currently to three in Year 3

UPTOWN SERVICES, LLC

CUSTOMER SUPPORT OVERVIEW

Scenario	Daypart	Position(s)	Contact Method	Sales / Support Functions
Middle Mile	M-F 8am–5pm	Account Manager Network Design Engineer Maintenance Techs	Direct customer contact	Sales meetings and proposals, including drawings of fiber routes. Communicate and conduct scheduled maintenance.
	After Hours M-F 5pm–8am / Sat / Sun	On-Call Maintenance Tech	Network alarm notification	Response to Severity I incidents and follow notification and escalation procedures
Last Mile	M-F 8am–9pm	CSRs	Inbound calls	Serviceability inquiries, connect orders, change/move orders, disconnect orders, billing
			Outbound Calls	Ready-for-service notifications
		TSRs	Inbound call or warm transfer (by CSR)	Help desk support and troubleshooting
		Field Techs	Dispatched via OSS Trouble Ticket	Onsite service issue resolution
	After Hours M-F 9pm–8am / Sat / Sun	3rd Party Call Center	Inbound calls	Sales: Create account and work order for next day callback Support: Help desk support and troubleshooting
		On-Call Tech	Network alarm notification / Customer notification (via IVR)	Response to Severity I incidents

LAST MILE: CUSTOMER SUPPORT SHIFTS

Hours of Operation will need to extend beyond regular public access hours:

- Inbound calls answered by CSRs and TSRs will peak between 5-8pm weekdays
- Maintenance Tech will be on-call after hours for any network outage
- Install Techs will be scheduled into 4 hour install windows (morning and afternoon) with 1 hour arrival window commitment

Position	Shift Schedule	Skillset Requirement*
Commercial Account Rep	M-F 8am-5pm	Account sales / Prospect management / Knowledge of telecom services / Wiring design & cost estimation
Customer Service Reps	3 Shifts (M-F) Shift 1: 8am-5pm Shift 2: Noon-9pm Shift 3: Noon-9pm	Customer service experience / sales experience / computer and software proficiency /
Technical Service Reps	2 Shifts (M-F) Shift 1: 8am-5pm Shift 2: Noon-9pm	ISP help desk experience / PC, home router, and WiFi knowledge / software proficiency / basic network understanding
Install Techs	2 Install Windows Morning & Afternoon	Field Tech experience / Low-voltage wiring knowledge / basic OSP construction knowledge
Maintenance Techs	M-F 8am-5pm After Hours: On-Call	
Service Techs	M-F Noon-9pm	

* Ideal candidates for these positions will possess previous industry experience in similar roles with CenturyLink, Comcast or other service providers.

CUSTOMER SERVICE ISSUE CLASSIFICATIONS

Severity I: TSR, on-call engineer or tech will immediately initiate appropriate steps to resolve the issue as soon as possible

Severity II: Initiate within 4 hours of receiving notification from the customer

Severity III: Initiate response such that resolution activity will be underway prior to 5pm of the same day if notification from the customer was received by 11am – otherwise resolution next business day

<table>
<tr><th></th><th>Residential</th><th>Commercial</th><th>Key Account / SLA</th></tr>
<tr><td>Single Premise Affecting</td><td>Severity III Incident:
• ONT not powered
• No Internet or Slow Internet
• Email issues (if using City-provided email)</td><td>Severity II Incident:
• ONT not powered
• No Internet
Severity III Incident:
• Slow Internet
• Email issues (if using City-provided email)</td><td rowspan="2">Severity I Incident:
• All connectivity- related issues</td></tr>
<tr><td>Multiple Premise Affecting</td><td colspan="2">Severity I Incident:
• ONT not powered
• No Internet
Severity III Incident:
• Slow Internet
• Email issues (if using City-provided email)</td></tr>
</table>

SOFTWARE TOOLS OVERVIEW

- **Operations Support Software** (OSS) is the primary software tool controlling nearly all aspects of service provisioning & management (including device interdiction and control), customer account management, and billing. Examples include ETI and Great Lakes Data Systems. A key consideration is the degree of interoperability between the OSS and the FTTP electronics platform (e.g. to support auto-provisioning, etc.).

- **Fiber Management Software** is the GIS-based design tool for drafting OSP pathway, assigning fiber strands, and maintaining the fiber assets. The City is already using a GIS software platform to manage existing fiber and conduit assets. The City would need to keep the system updated as new subscribers are added and the network is expanded to new build areas.

- **Network Element Management Software** (EMS) provides an integrated system for sharing device information across management applications, automation of device management tasks, visibility into the health and capability of the network, and identification and localization of network trouble. This functionality is typically acquired as part of an FTTP Equipment RFP.

UPTOWN SERVICES, LLC

REQUIRED OSS FUNCTIONALITY

The following OSS functions are critical to having robust and reliable control over the customer fulfillment process. Furthermore, in order to minimize front-line staff efficiency and reduce human error, the OSS should fully interoperate with both the FTTP electronics vendor and the voice provider.

Functionality / Module	Required Capabilities
Platform Options	Onsite or Hosted
Supported Service Set	Required: Data services. Optional: Voice and/or Video (including hosted video apps)
House File	Import from GIS database. Serviceability status for each premises.
End User Billing	Service and package codes, discounting, bill cycles, bill statement rendering, campaign codes/rules, prorating, cash drawer, billing file export, call detail record import, payment posting, deposits, online bill payment
Service Order Management	Create and manage work order (WO) types (Connect, Disconnect, Suspension, Change, and Trouble Ticket), WO reporting, WO routing, notes filed, sales ID assignment, reason codes
Work Force & Asset Management	Scheduling and quota management, technician skill ratings, activity codes and task points assignment, inventory tracking/location of ONTs and other CPE, technician productivity reports, on-time appointments, inventory level reports
Interoperability & Integration	Interoperability and devise control over all ONT models including WiFi and extenders
Trouble Ticketing	Trouble ticket creation (both manual and automated), definable problems with categories and reason codes, definable customer types and categories, notification via email based on groups, problem codes, severity

Task 4: Identify Resources to Enhance Infrastructure

RESOURCES TO SUPPORT UPGRADES

- Impact of other construction projects on planned routes for broadband
  - The proposed upgrade plan calls for minimal construction of new routes
  - The primary strategy involves improving the quality and resilience of the existing network
  - City should continue to place new fiber conduit segments as part road and water work
- Level of contractor involvement throughout the upgrade process
  - Initial outside plant design and technical services (splicing) covered by staffing plan
  - Ongoing maintenance and engineering are also covered by staffing plan
  - City should contract with outside plant construction firm to complete vault upgrades
  - Fiber department staff should serve as project manager for the vault upgrades
- Material requirements and associated lead times
  - All required outside plant materials should be available within standard delivery windows
  - All vaults and handholes will be referenced to an existing Washington DOT specification
  - No specialized assemblies or devices are required for the proposed network upgrades

RESOURCES TO SUPPORT UPGRADES

- Specialized permitting requirements
  - No specialized permitting will be required for the proposed upgrades
  - Some vault replacements may involve sidewalk closures
  - Most vault replacements will be complete in three days or less (including restoration)

- Project deployment strategy in terms of phasing and timeframe
  - Backbone upgrade efforts should be prioritized from the center of the network
  - Upgrades should be completed on a route-by-route basis
  - Issue an RFP for OTDR testing and analysis of the existing fiber network
  - Issue an RFP for “up to” 845 vault upgrades
  - Hold the fiber installation RFP for the Southwest Route until that route has been upgraded
  - Project should take 18 to 24 months from testing to completion of the last vault upgrade

Task 5: Opportunities to Serve Unserved and Underserved Areas

Evaluation of Federal Grant Funding Opportunity

ARPA: STATE AND LOCAL FISCAL RECOVERY FUNDS

The American Rescue Plan Act of 2021 (ARPA) is a federal grant program available to public sector entities that includes funds for the construction of broadband infrastructure, along with numerous other programs…

Program Overview	• Total program funds of $350B were allocated to various governmental jurisdictions:
	  • States: $195B
	  • Counties: $65B
	  • Cities: $45B
	  • Tribal Governments/Territories/Other Local Government: $44B
	• Funds investment in broadband infrastructure (build or upgrade)
	• Funding starts March 3, 2021. Funds must be "obligated" by December 31, 2024
	• Program rules issued by Department of the Treasury with Final Rule effective April 1, 2022

Eligible Use of Funds	• Necessary investment: Service area is eligible if there is an **identified need for additional broadband infrastructure investment** (e.g. lack of reliable 100M symmetrical speed) using data methods from speed tests, federal or state maps, interviews and surveys. • Minimum level of service: Minimum speed of 100Mbps symmetrical • Labor standards: Local hiring, prevailing wages, and safety and training standards • Affordability: Service provider participation in qualifying affordability plan
Project Prioritization	• Priority given to projects that provide last mile connections using wireline technology • Construction contracts should reflect prevailing wages and robust labor standards • Project ownership, operation, or affiliation with local governments or cooperatives • Avoid service areas under existing funding commitments via federal or state grants

BROADBAND EQUITY, ACCESS & DEPLOYMENT PROGRAM

The Broadband Equity, Access, and Deployment Program (BEAD) is a federal grant program that includes funds broadband deployment, mapping, and adoption projects…

Program Overview	• $42.5B in total funding to be allocated at the state level • Planning and project prioritization through state broadband offices which are tasked with developing 5 year action plans • Program oversight at the state level with federal implementation and support via the National Telecommunication and Information Administration (NTIA) • The 50 US states and territories are eligible grantees that can award BEAD grant funds to 'subgrantees' including coops, 3P partnerships, PUDs, and private firms, local governments, etc.
Eligible Use of Funds	• Last mile infrastructure projects must target un- or underserved areas where 80% or more of households do not have access to a minimum of 100Mbps/20Mbps. • State broadband offices are expected to begin accepting applications during the first half of 2023
Likely Guidelines	• While up to each state, we expect alignment with ARPA rules for determining eligible service areas • Funding recipients will be required to collect and maintain data to help the NTIA assess the programs' impact, evaluate targets, promote accountability and coordinate with other federal and state programs • Criteria to assess grant recipients' plans to ensure that service providers maintain or exceed thresholds for reliability, quality of service, sustainability, upgradability and other required service characteristics • Criteria to ensure that funding is deployed in a way that maximizes the creation of "good paying jobs.

UPTOWN SERVICES, LLC

RECONNECT PROGRAM

The ReConnect Program provides loans, grants, and loan/grant combinations to bring high speed Internet to rural areas, including infrastructure projects…

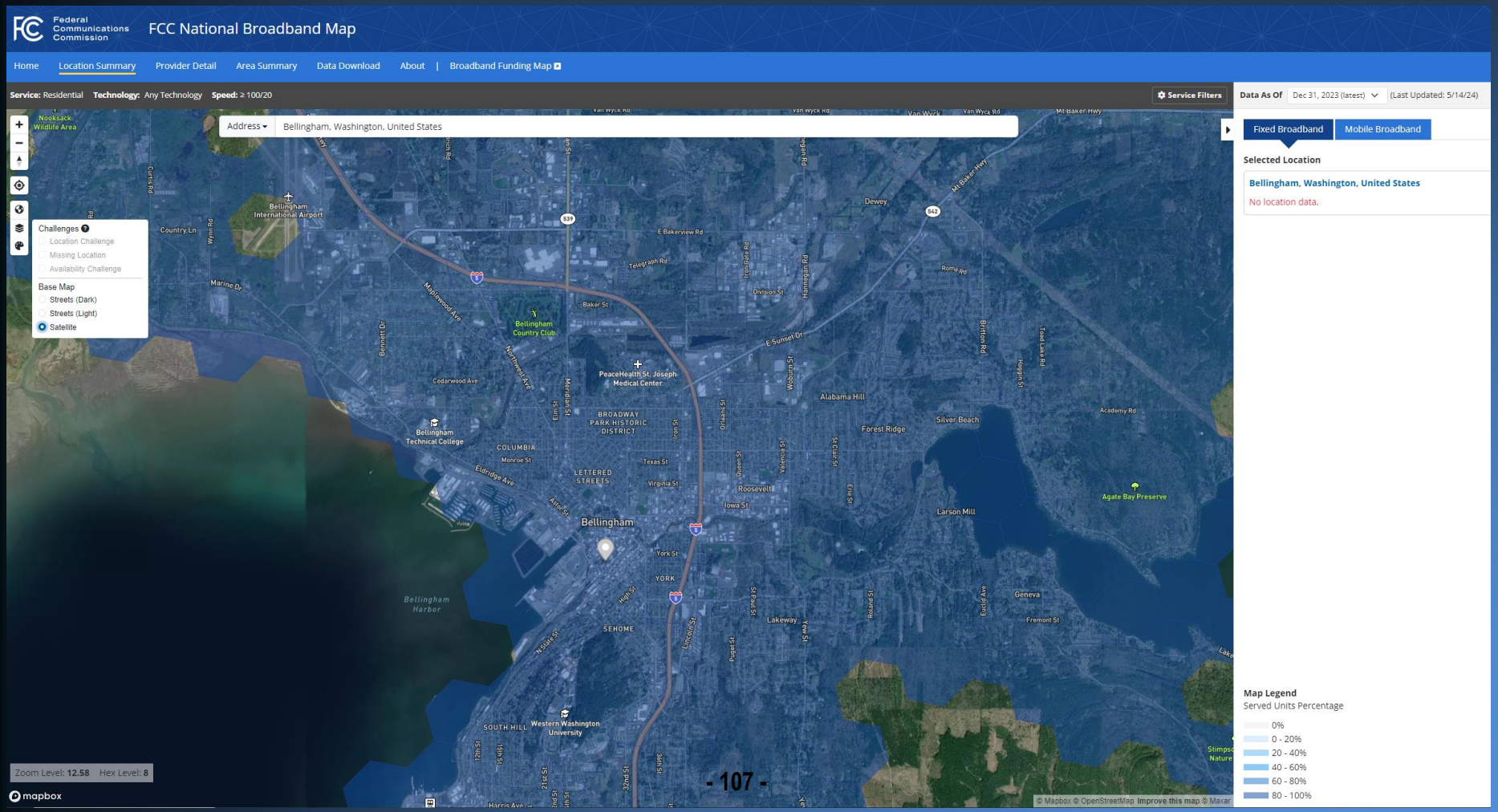
Program Overview	• The program is funded through funding rounds with Round 4 closing on November 2, 2022
	• Program oversight at the U.S. Department of Agriculture (USDA). Round 4 funds up to:
	  • $150M in loans
	  • $300M in loan/grant combinations
	  • $700M in grants
	• Eligible grantees include both public and private sector entities

Eligible Use of Funds	• Eligible service areas must be both a) Rural*, and b) 50% or more of households must lack sufficient access to broadband, defined as "fixed terrestrial broadband service at 100 Mbps downstream and 20 Mbps upstream • For a 100% grant (with no loan), the applicant must demonstrate that at least 90 percent of homes in the proposed service area do not have sufficient access to broadband • Program funds can be used for the construction or improvement of facilities capable of delivering 100 Mbps symmetrical service to every premises in the proposed service area at the same time
Other Guidelines	• Awardees will be required to participate in the federal ACP program • Projects funded by a 100% grant require a 25% match

*Service areas cannot be located in a city, town, or incorporated area with a population greater than 20,000, or an urbanized area adjacent to a city or town with a population greater than 50,000.

FCC NATIONAL BROADBAND MAP

All reporting areas within Bellingham are “served” with broadband at a minimum level of 80% according to the latest FCC National Broadband Database and Mapping

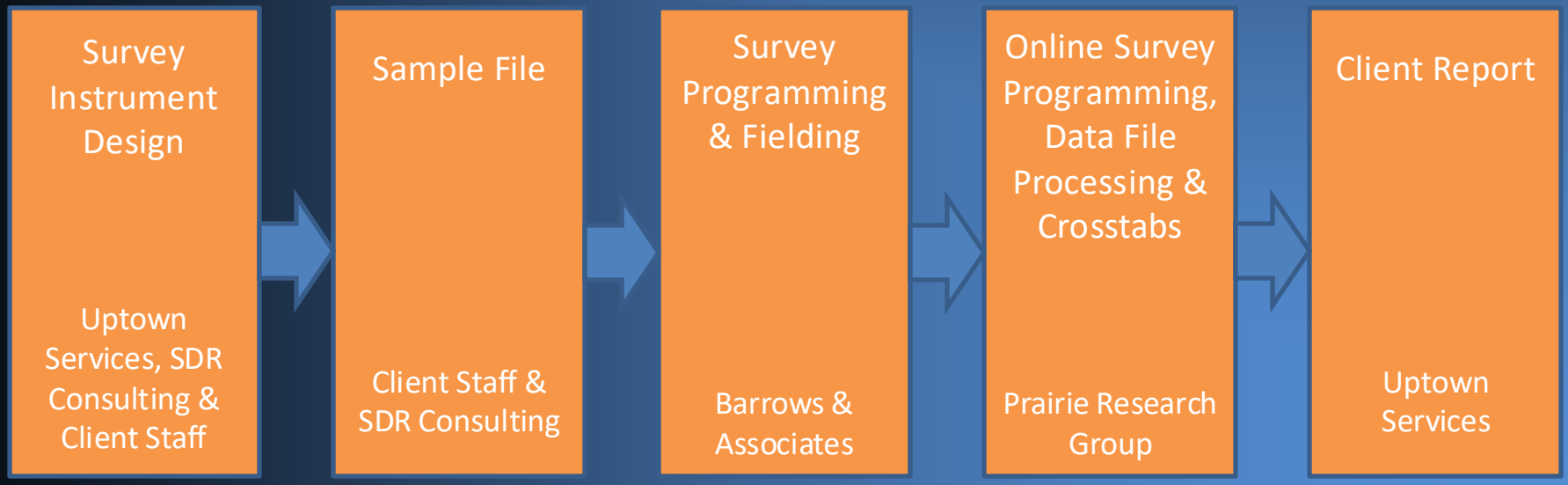


Task 5: Opportunities to Serve Unserved and Underserved Areas

Residential Quantitative Market Research

RESEARCH TEAM

- The quantitative research process utilized both subject matter and functional expertise across multiple contractors by specialty:
  - **Uptown Services**: Subject expertise and study data needs
  - **SDR Consulting (Rick Hunter)**: Research expert overseeing design and execution (23 years experience with 200k completed research projects)
  - **Barrows & Associates**: Survey fielding and data collection
  - **Prairie Research Group (James Wolken)**: Online survey programming, crosstab analysis and production of output banners (25 years experience)

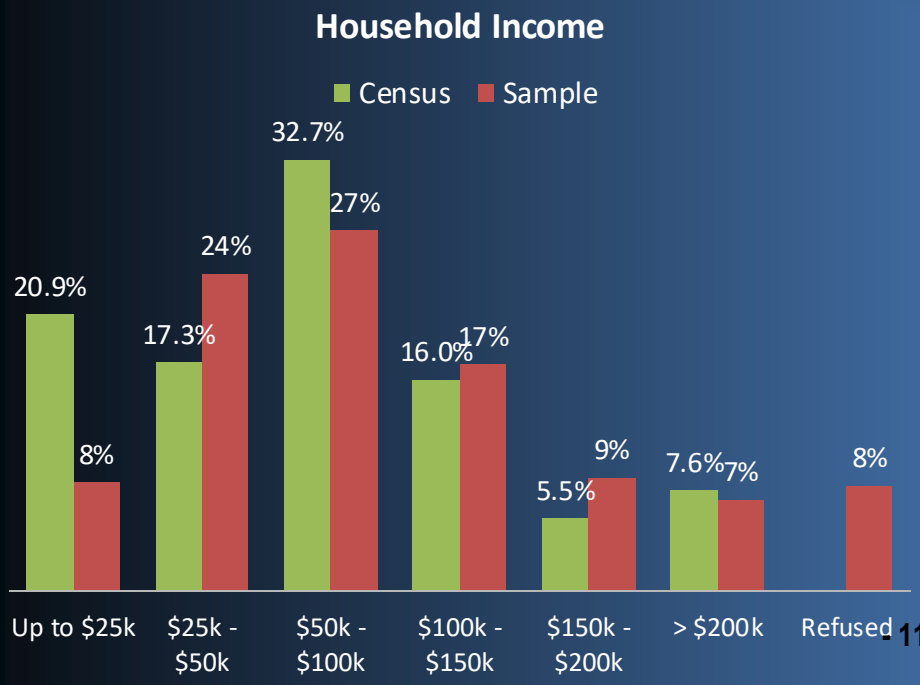


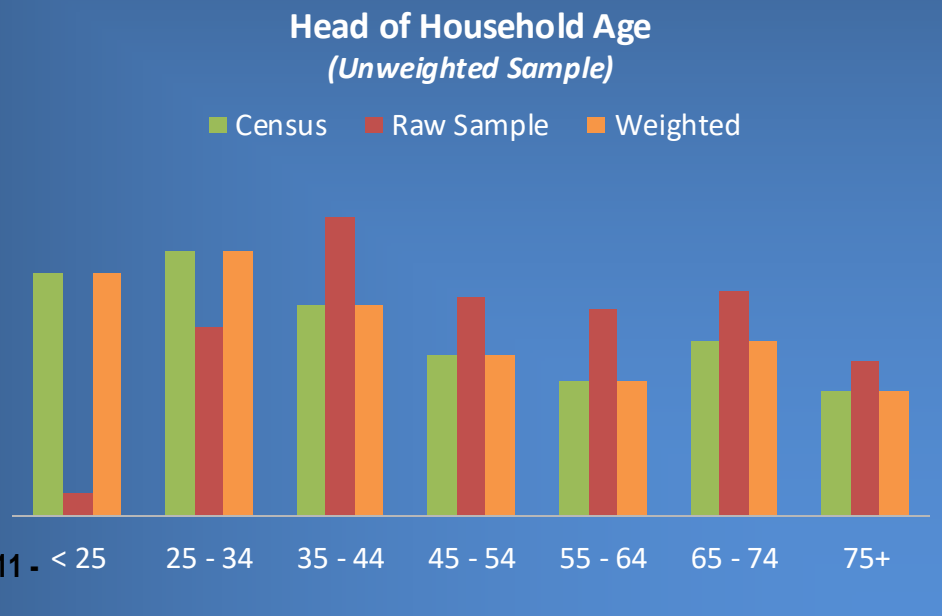
DESIGN FRAMEWORK

- Phone and online surveys
  - Total sample of 1,522 respondents of universe of ≈39,000 households
    - 395 via phone survey (list included wireline and wireless numbers)
    - 1,127 via online email invitation (email addresses purchased via 3rd party data source)
  - ± 2.5% sample error at 95% confidence interval
- Age quotas used to ensure robust sample across all age groups. Results weighted to reflect actual age distribution from 2022 American Community Survey (US Census Bureau) data
- Respondents screened to ensure
  - Decision-maker for telecommunications and entertainment services in the home
  - Reside within city limits
  - Respondents with immediate family members employed by any of the following were excluded:
    - The City of Bellingham
    - Comcast/Xfinity
    - CenturyLink
    - Ziply
    - PogoZone
    - Quantum Fiber
    - Astound Broadband

SAMPLE DEMOGRAPHICS

- Survey results are weighted to reflect the actual age distribution (by age decile) per the 2020 census.
- The income profile of the sample is not dissimilar to the universe of residents, but skews slightly to higher income, with lower income households more likely to refuse to state income.



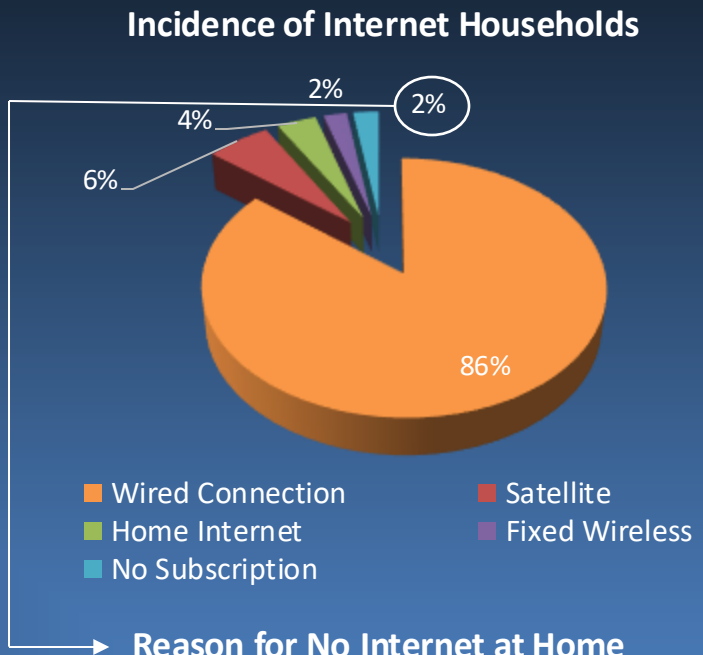


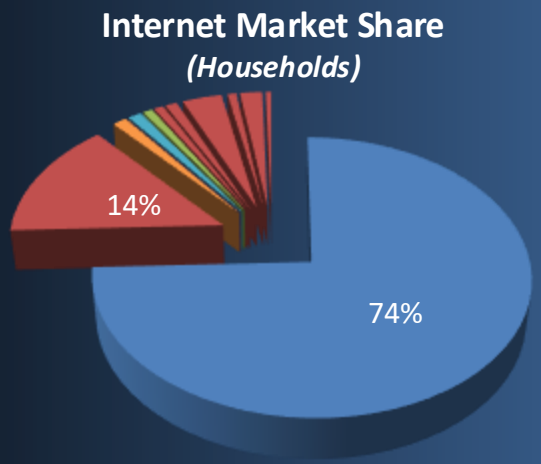
Residential Quantitative Survey

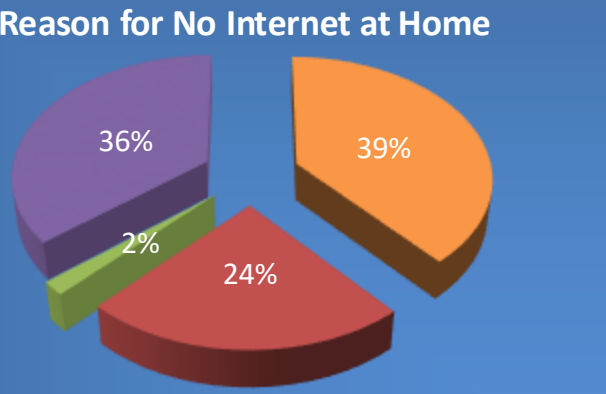
Current Broadband Services Usage

INTERNET SERVICE PURCHASING BEHAVIOR

- 98% of Bellingham households subscribe to Internet service at home, with 86% via a wired connection
- Comcast has 74% market share of the residential broadband market
- Lack of need and affordability are the primary reasons for lack of an Internet subscription



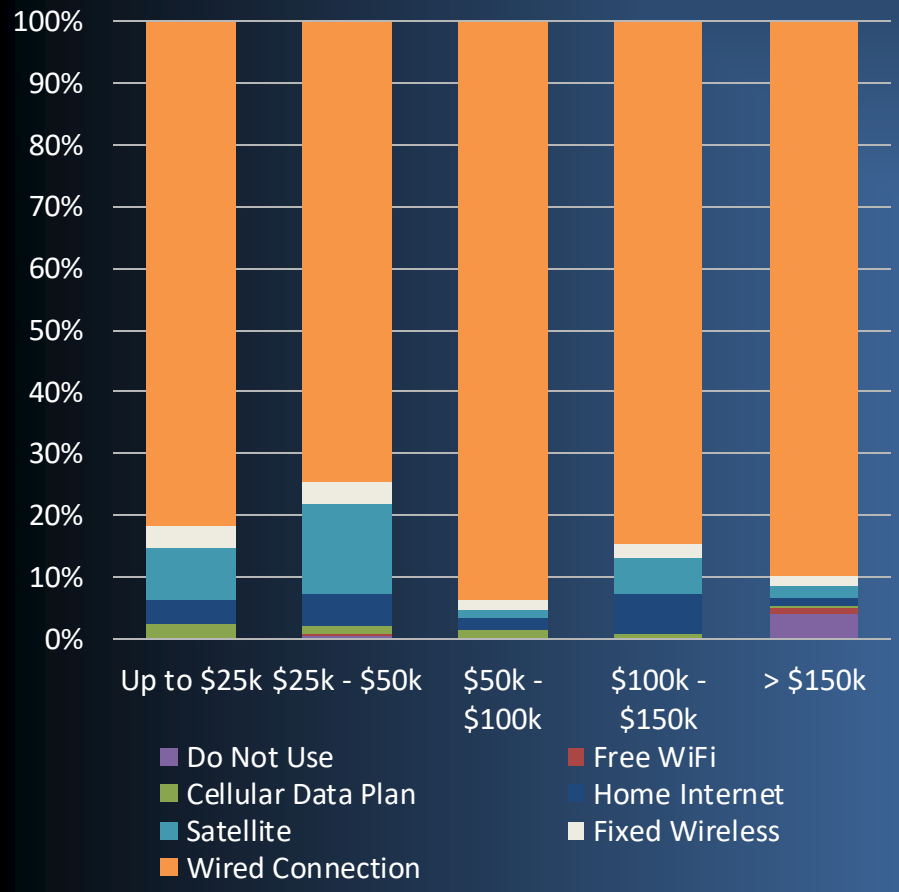




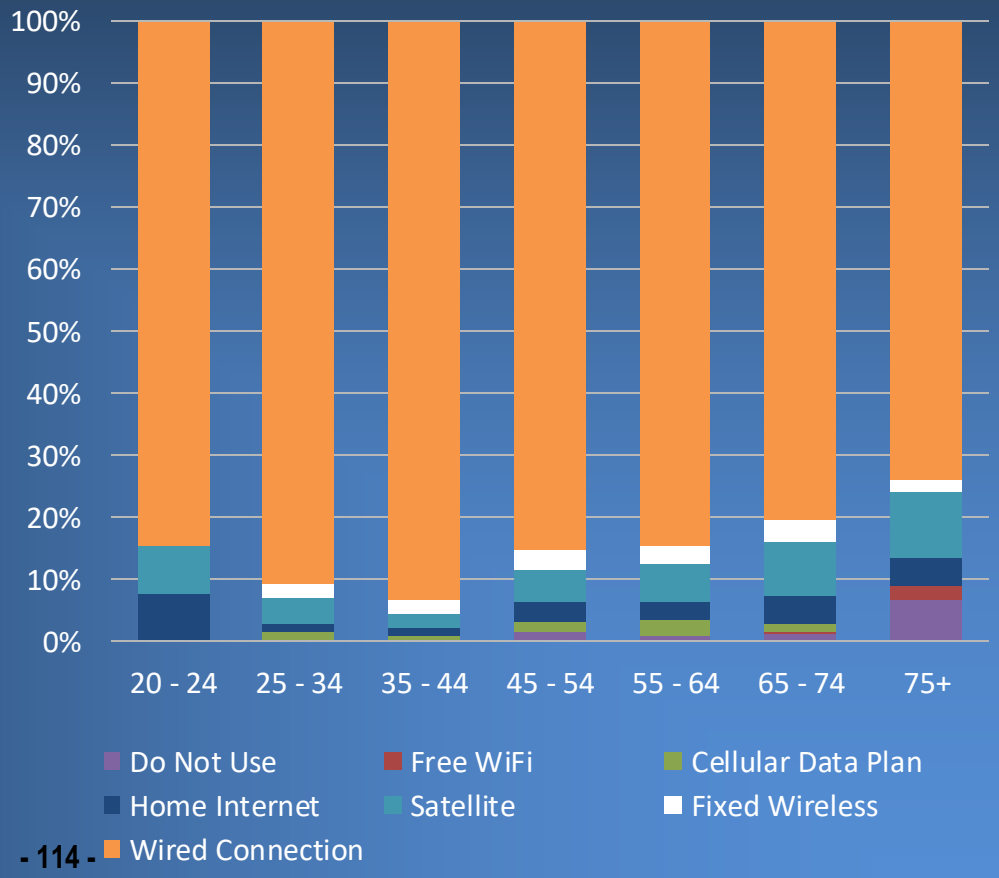
INTERNET ACCESS METHOD DEMOGRAPHICS

- Household income below $50k slightly reduces incidence of a wired Internet connection
- Older households are slightly less likely to have a wired Internet connection

Internet Access Method by Income

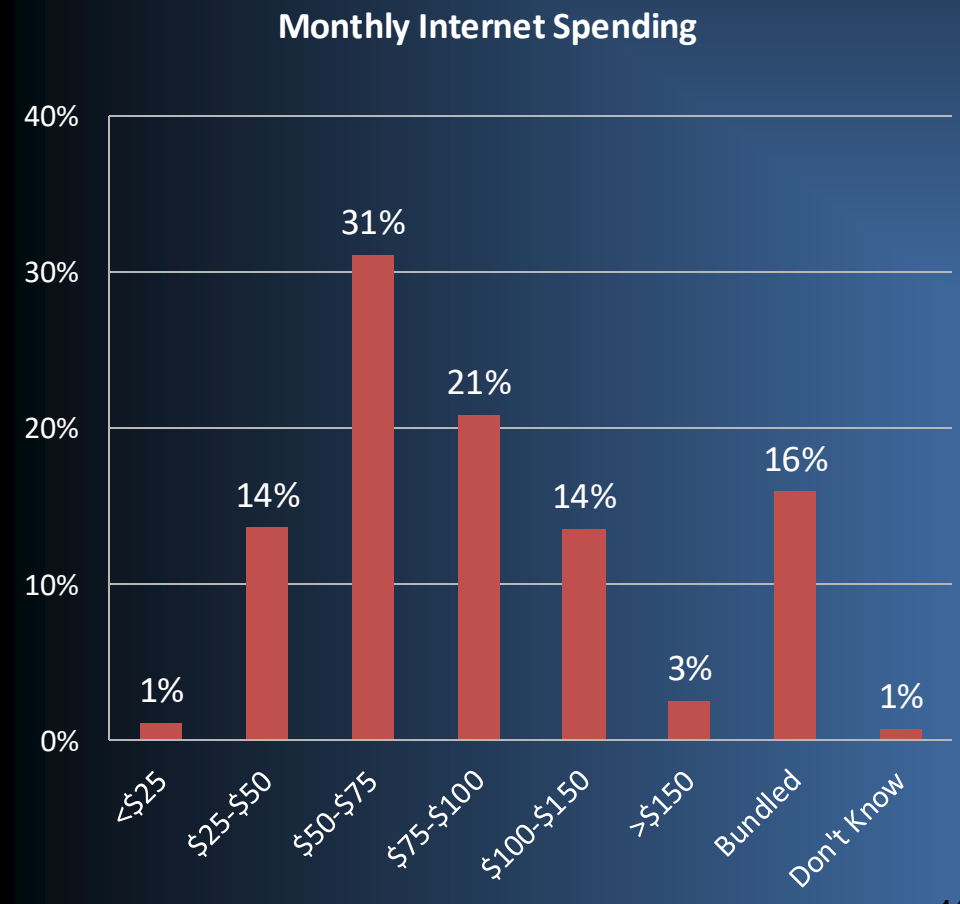


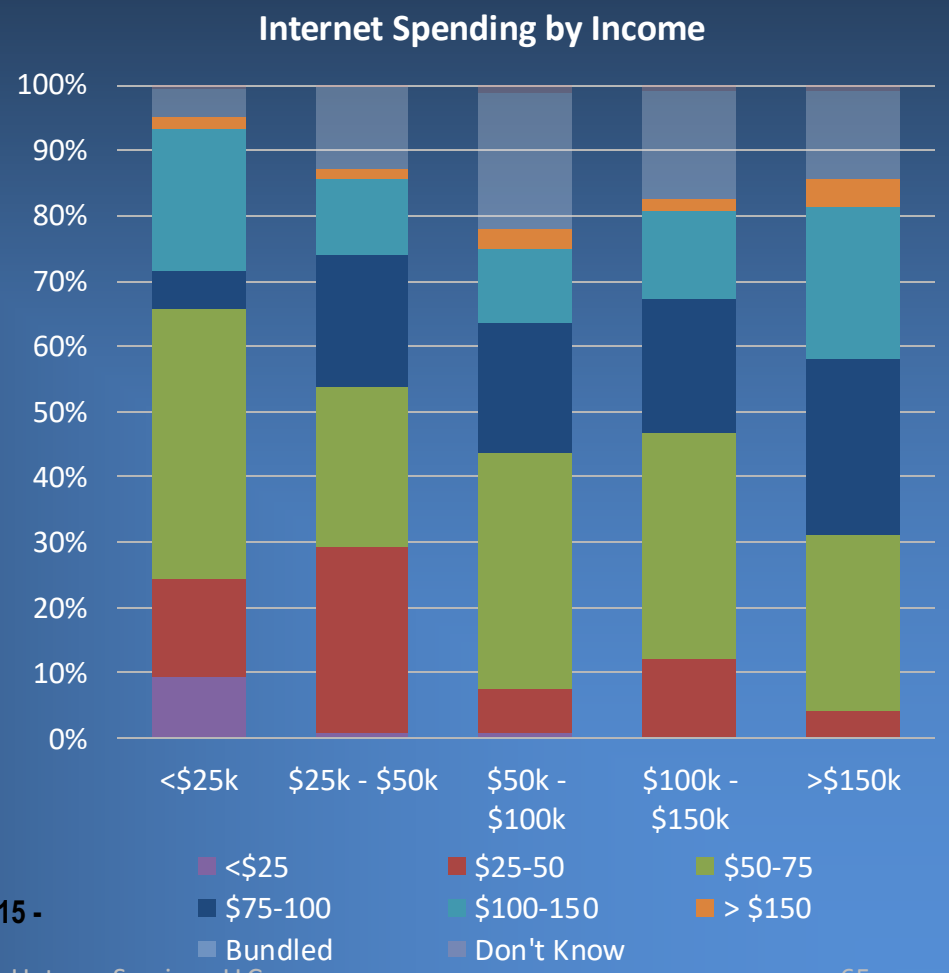
Internet Access Method by Age



STATED INTERNET SPENDING

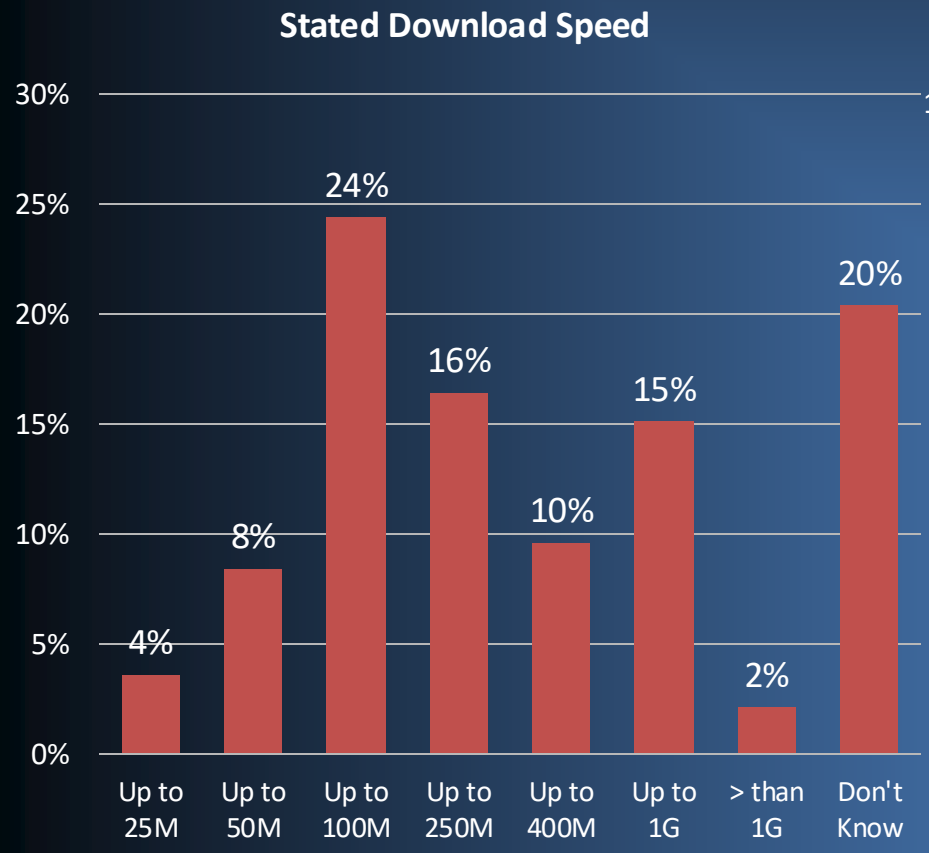
- Monthly spending averages $70 across all households
- In general, average spending increases with greater household income

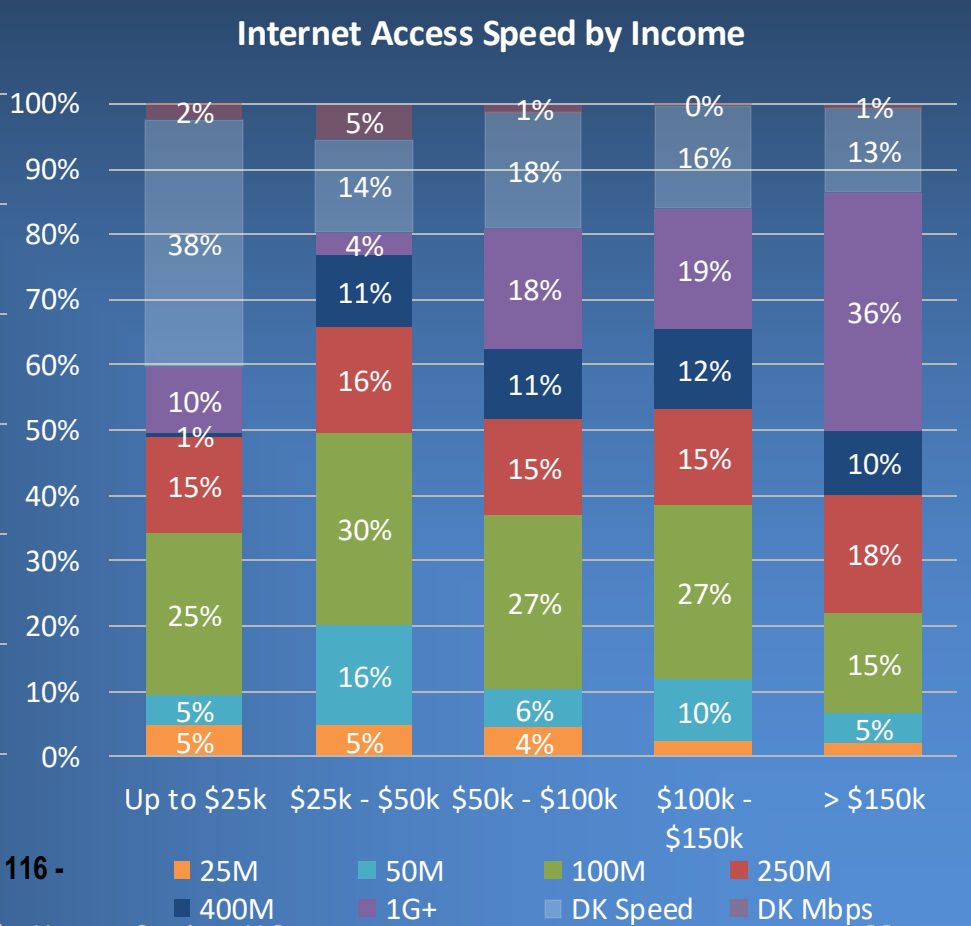




STATED DOWNLOAD SPEED

- 20% of households do not know what speed they subscribe to
- 43% of households *state* they subscribe to > 100M
- Lower income households are more likely to subscribe to lower capacity Internet tiers

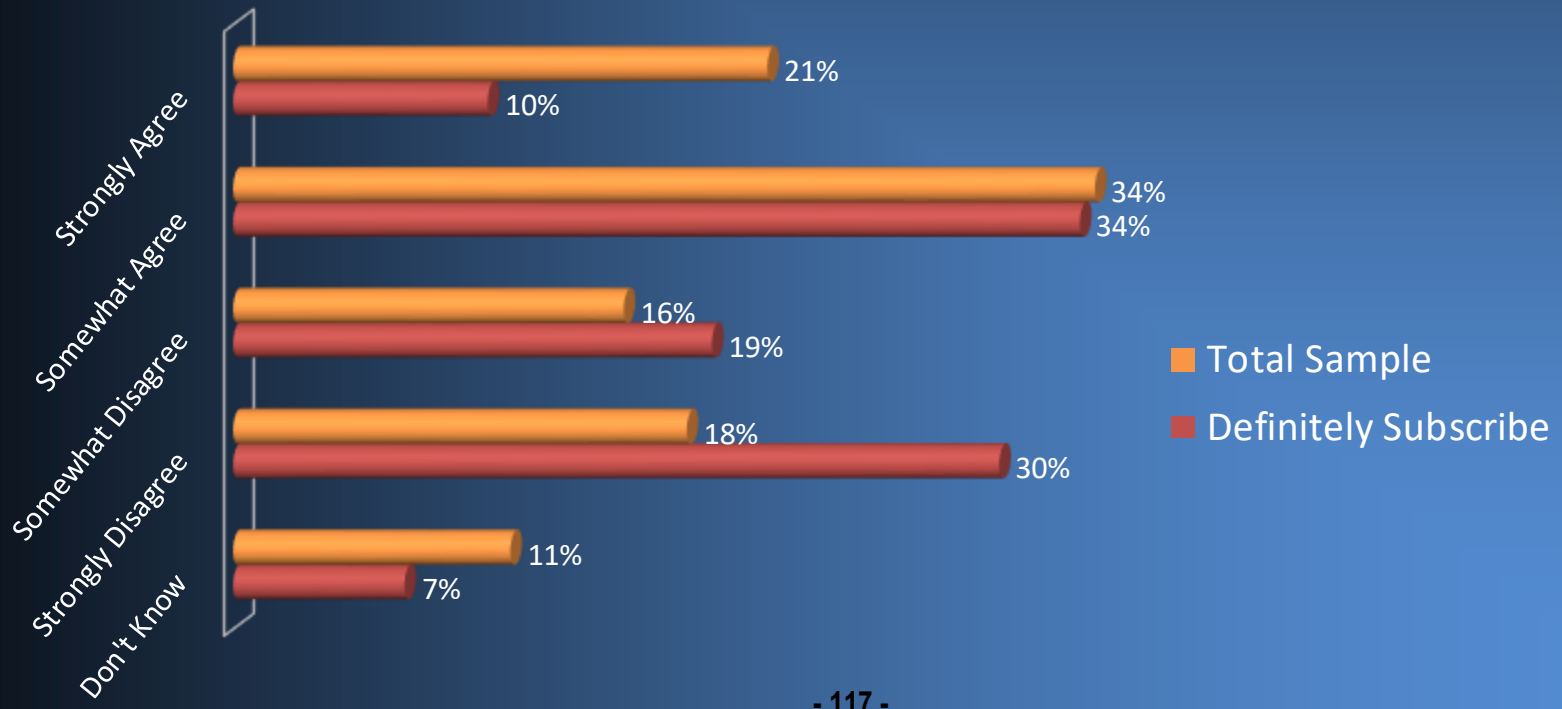




PERCEPTION OF RECEIVED VS. SUBSCRIBED SPEED

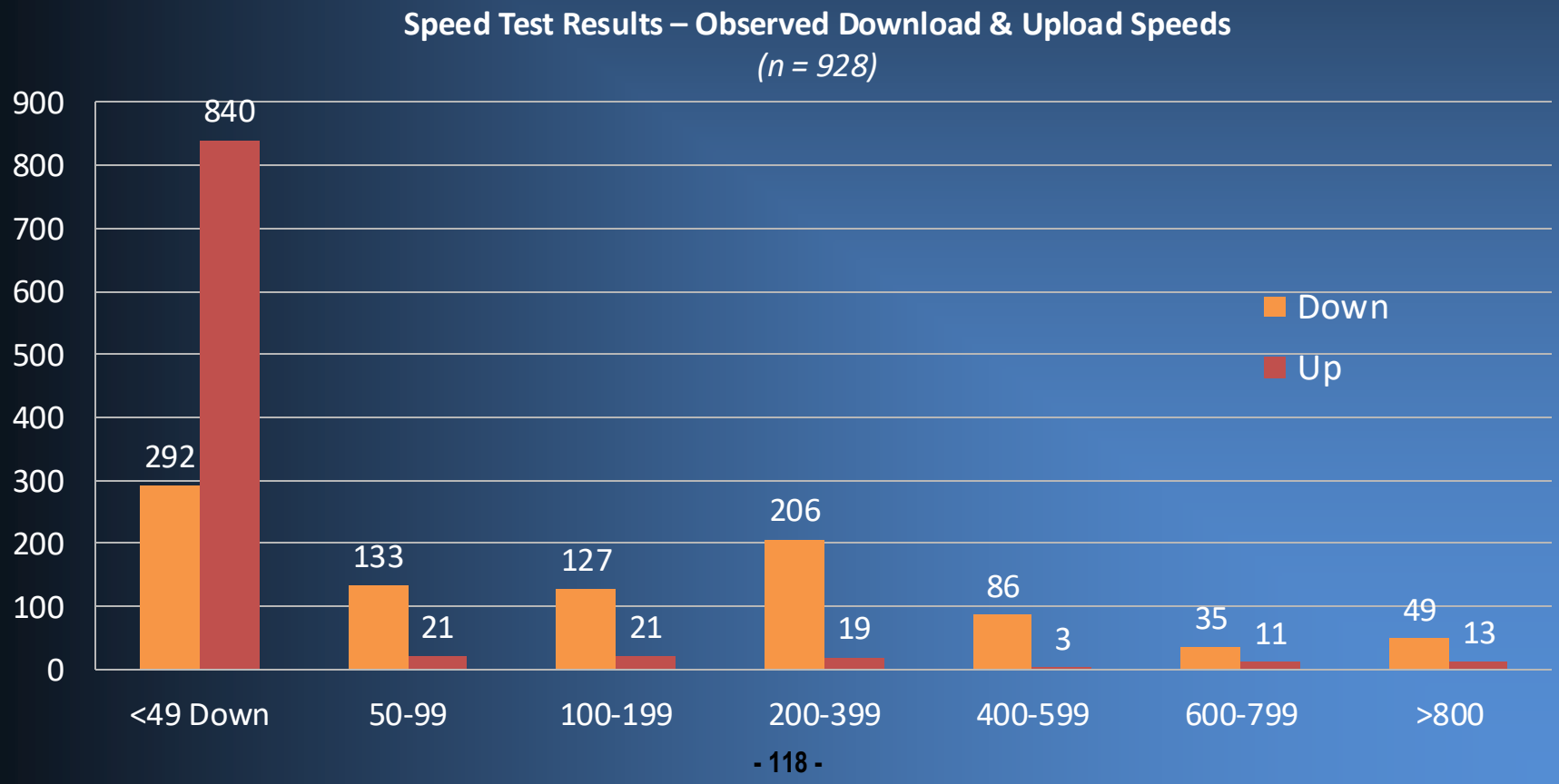
- 55% of households strongly agree or somewhat agree that they are receiving the advertised download speed they are subscribing to. This percentage drops to 44% among likely subscribers…

Q6: "To what extent do you agree or disagree with the following statement: I am receiving the advertised download speed I am paying for on my home internet connection?"



OBSERVED INTERNET SPEED

- Speed test results identify the median download speed as 122Mbps and the median upload speed as 12Mbps.



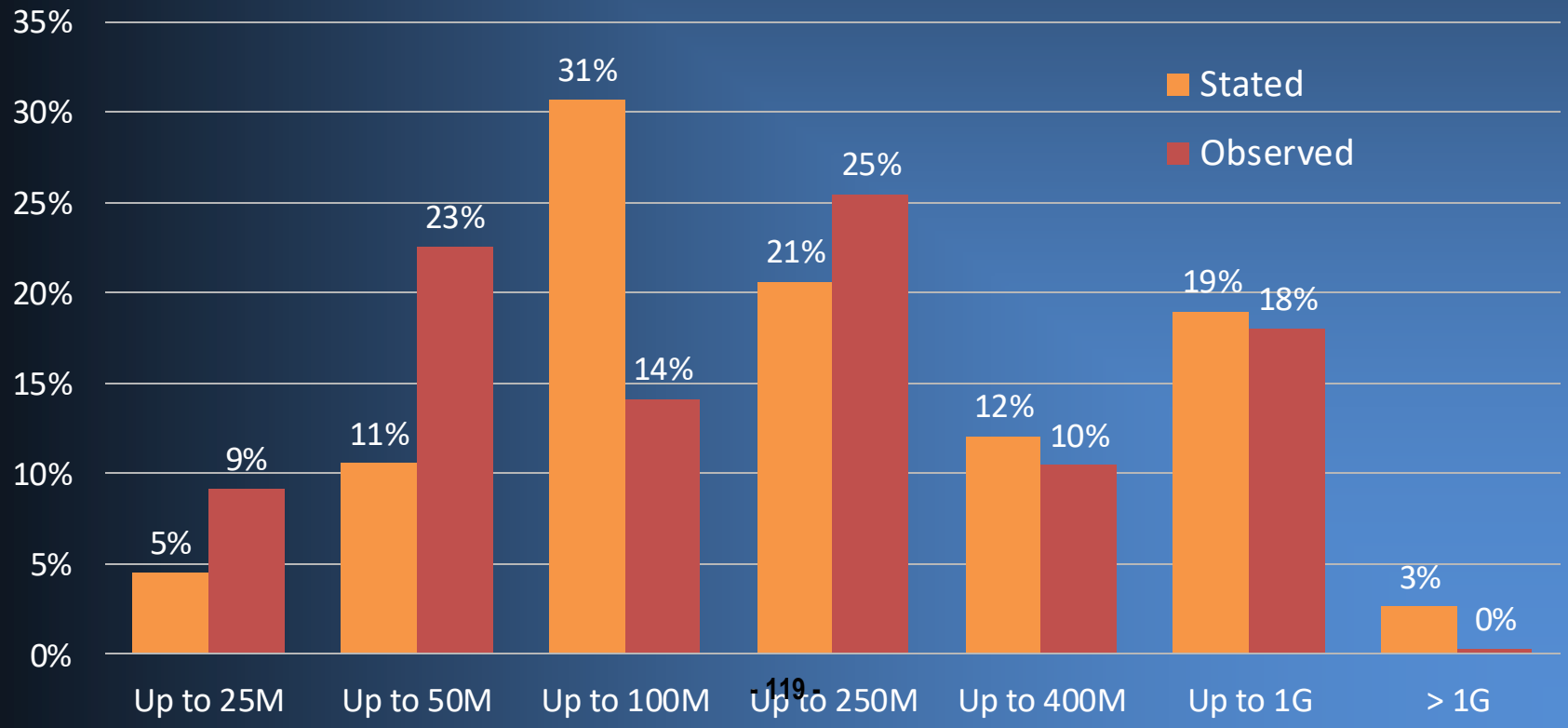
STATED VERSUS OBSERVED DOWNLOAD SPEED

- 32% of households measured at 25-50Mbps, with only 16% stating a 25-50Mbps subscription. These are likely not Comcast subscribers.
- However, at speeds of 250Mbps or greater, stated speeds closely match observed speeds…

Stated versus Observed Download Speed

Stated: n = 1,486 / Observed: n = 928

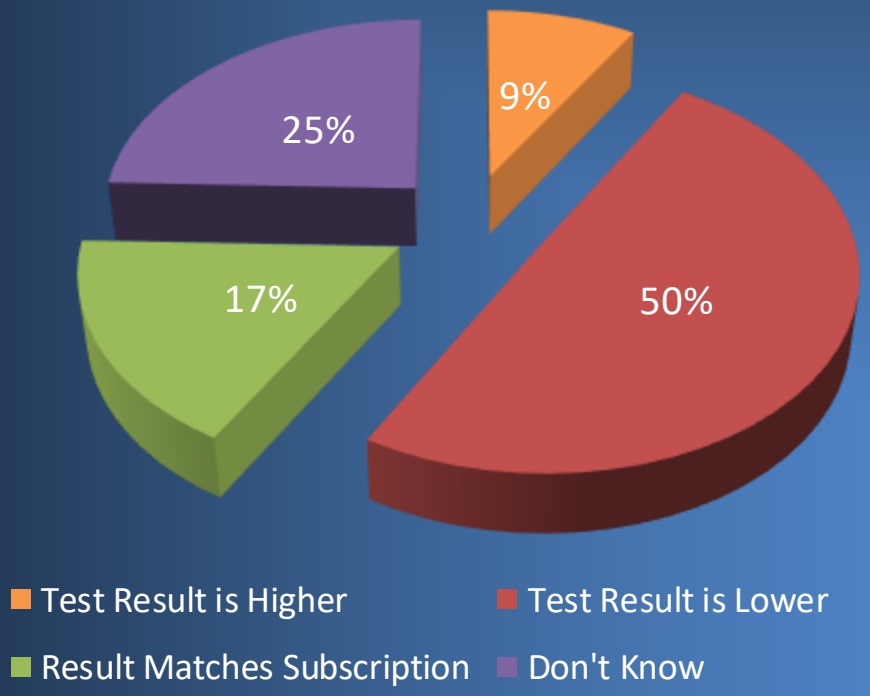
Data excludes "Don't Know" Responses



POST SPEED TEST OBSERVATIONS

- 50% of households that completed the speed test observed that the speed test outcome was lower than their subscribed speed…

Q30: "How does the download speed test result compare with the download speed you are subscribing to from your Internet provider?"



- 120 -

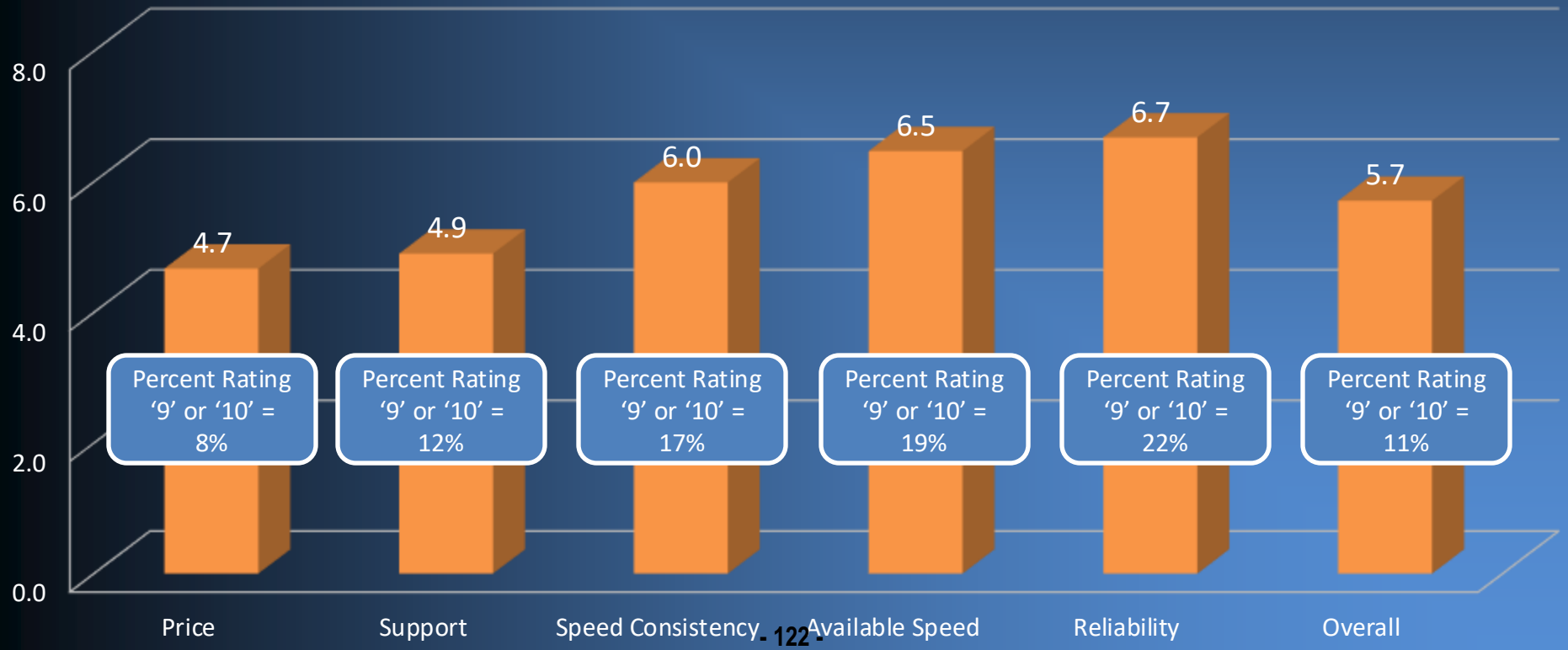
Residential Quantitative Survey

Satisfaction & Attribute Importance

SATISFACTION WITH SPECIFIC INTERNET ATTRIBUTES

- Internet satisfaction levels are low compared to other markets, with customer service and price being the service attributes with lowest satisfaction levels.
- Across all service attributes, the percentage of households that are 'very satisfied' and rating the service a 9 or 10 is very low.

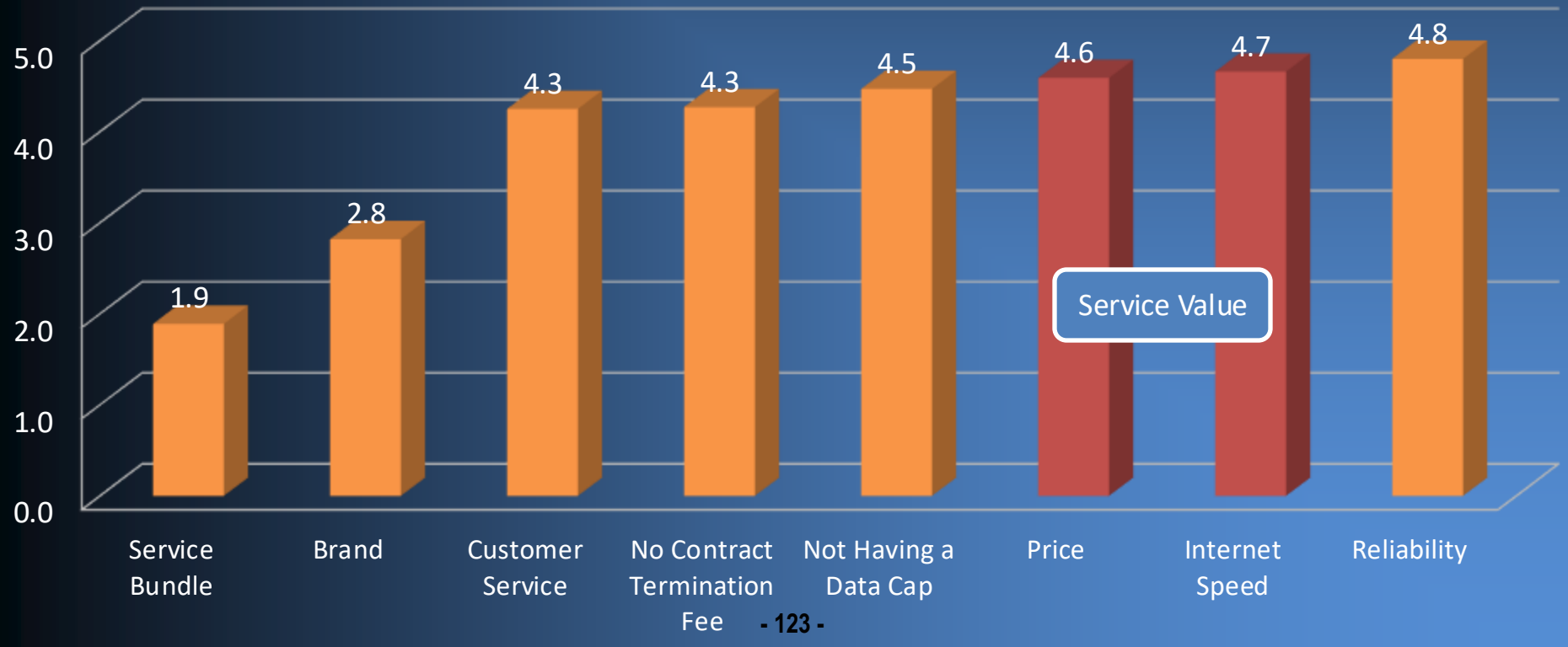
Satisfaction Rating by Internet Attribute
(Mean Rating on a 1-10 Scale)



ATTRIBUTE IMPORTANCE

- Reliability and price are the most important attributes, with Internet speed and customer service very close in importance as well.
- Provider policies such as termination fees and data caps score high in importance as well…

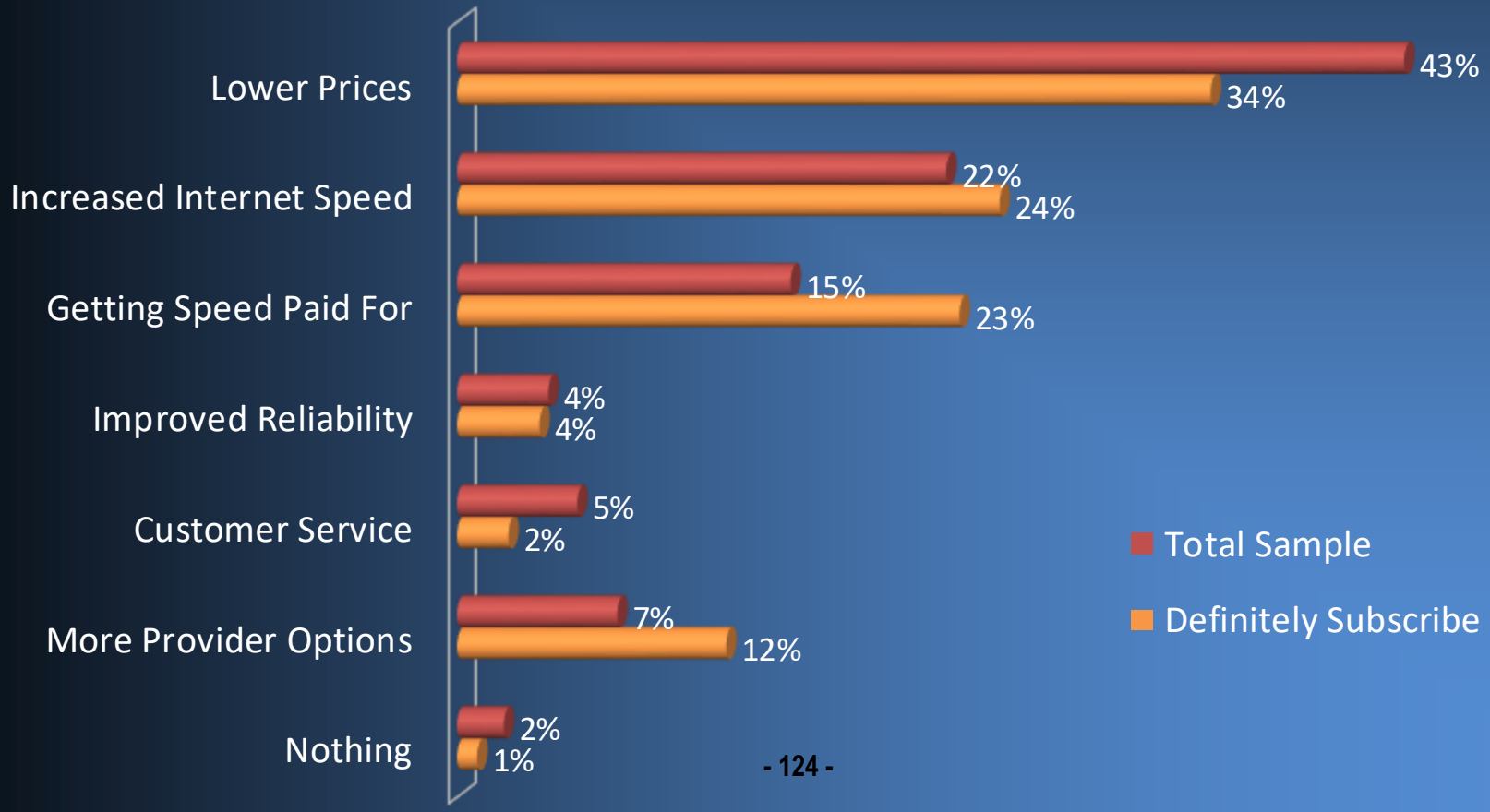
Importance Rating of Select Broadband Service Attributes
(Mean Rating on a 1-5 Scale)



BROADBAND AREAS FOR IMPROVEMENT

Bellingham residents see lower prices and increased Internet speed as the most important dimension for improving their broadband…

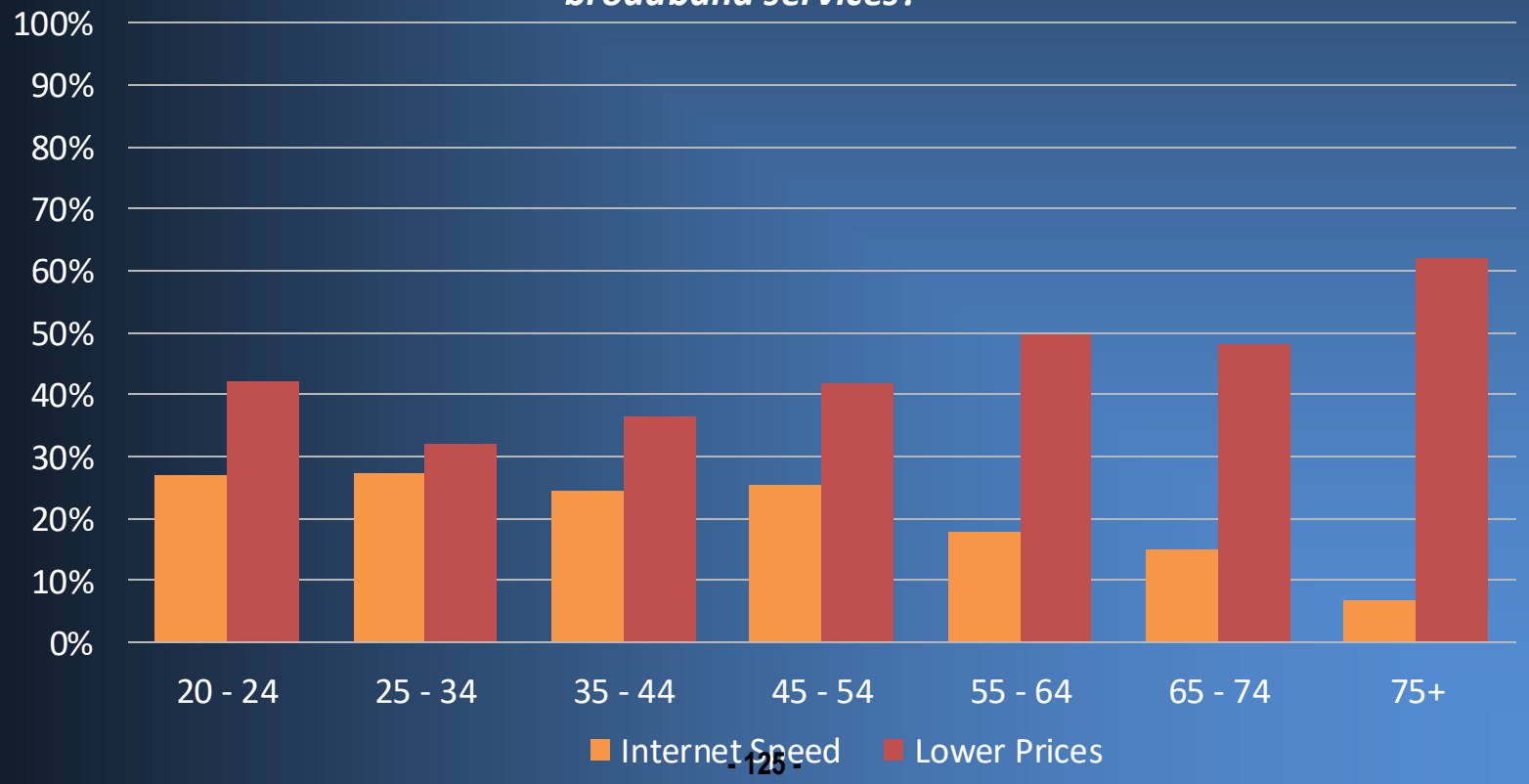
Q25: ***"What would you like to see most improved with your current broadband service?"***



MOST DESIRED IMPROVEMENT BY AGE

- Younger households most desire lower prices, but place relatively more value on Internet speed improvements compared to older households
- Older households place relatively more value on lower price improvements than speed improvements

Q25: *"What would you like to see most improved from your current broadband services?"*



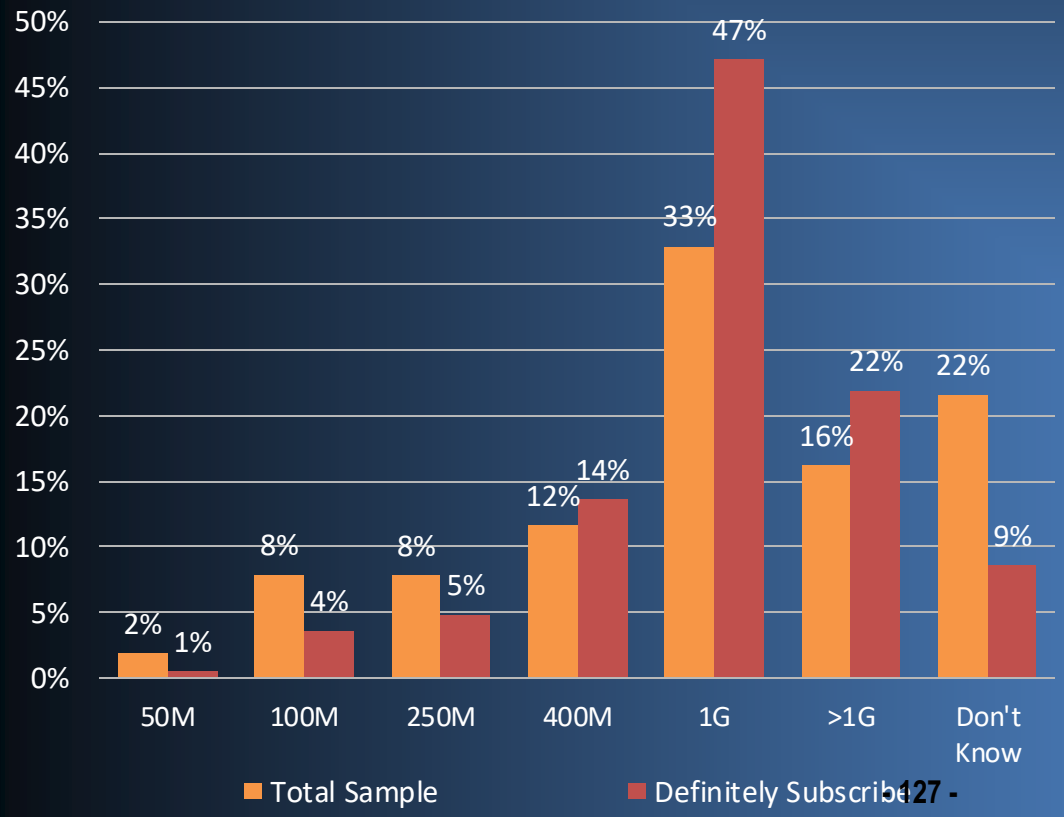
Residential Quantitative Survey

Digital Aptitude & Remote Working and Learning

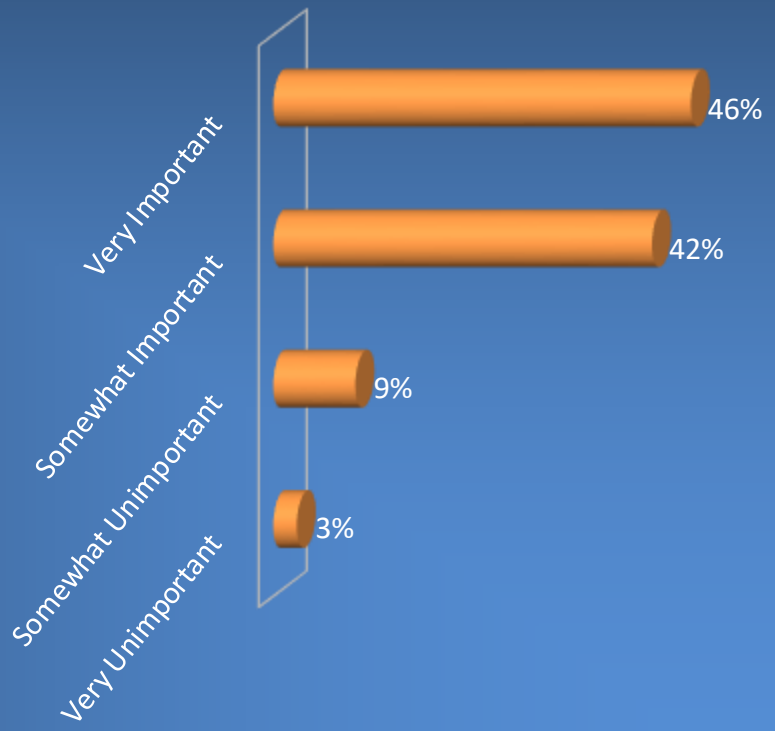
PERCEPTIONS OF INTERNET SPEED

- 49% of households state their ideal Internet speed would be 1G or higher. This increases to 69% among those who would definitely subscribe at $70 per month for 1G.
- Nearly 90% of households perceive the upload speed as very or somewhat important.

Q12: Ideal Download Speed



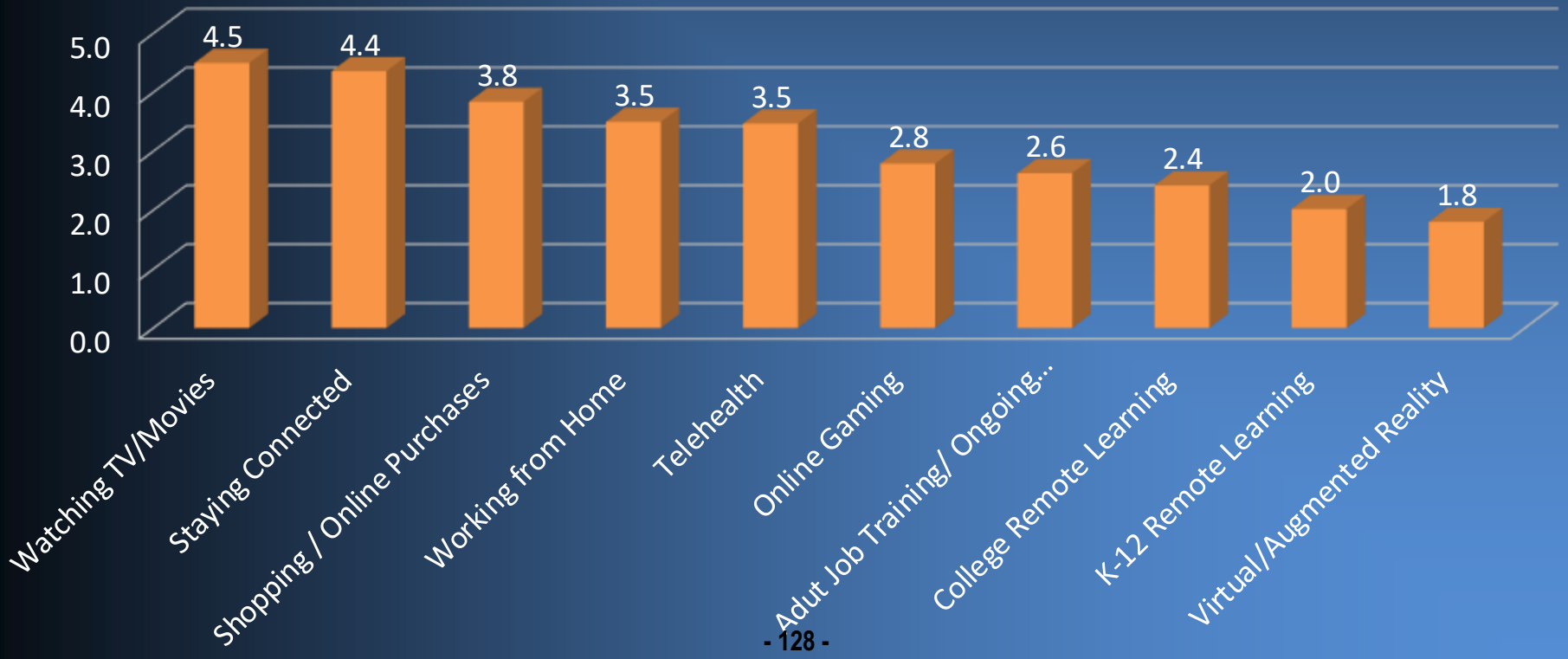
Q13: "How important is the upload speed on your home Internet connection?"



IMPORTANCE OF DIGITAL APPLICATIONS

Social connection and entertainment rate higher in importance than work-at-home and online learning applications despite the impacts of COVID-19…

Importance Rating of Select Broadband Applications/Uses in the Home
(Mean Rating on a 1-5 Scale)



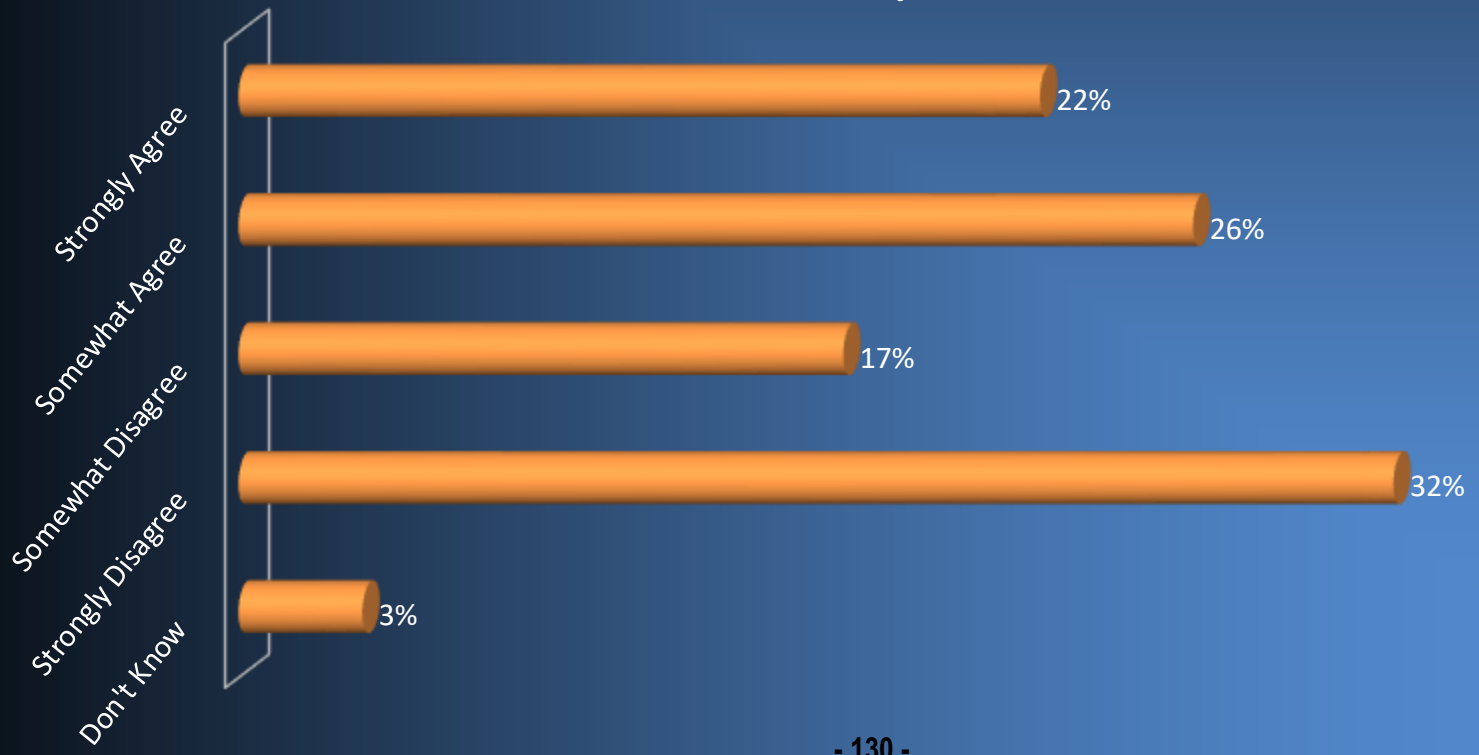
Residential Quantitative Survey

Affordable Connectivity

INTERNET AFFORDABILITY

- 48% of households strongly agree or somewhat agree that they are subscribing to a lower Internet tier in order to save money.

Q8: "I subscribe to a lower speed Internet service than I would like to in order to save money?"



- 130 -

AFFORDABLE CONNECTIVITY PROGRAM

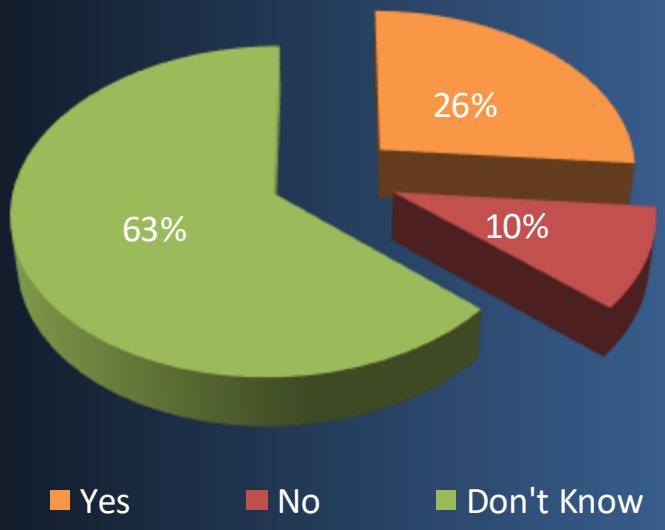
The Affordable Connectivity Program (ACP) is a newly funded federal program to subsidize Internet service among low-income households to narrow the digital divide…

Program Overview	• $14.2B in total funding • Qualifying households receive a $30 monthly benefit towards Internet service • Connected device reimbursement of $100 if provider charges between $10-$50 for the device • No set end date • Participation qualifies the service provider to receive BEAD grant funding
Household Participation Requirements	• Household income at or below 200% of federal poverty limit (e.g. household size of 3 earning $44k or less) • Participation in national school lunch program • Participate in the FCC Lifeline program
Service Provider Participation Requirements	• Eligible Telecommunications Carriers (ETCs) offering residential Internet service • Requires FCC approval and USAC election notification • The $30 discount must be available on all Internet tiers offered by the provider • No credit check and no disconnects for non-pay until 90 days past due

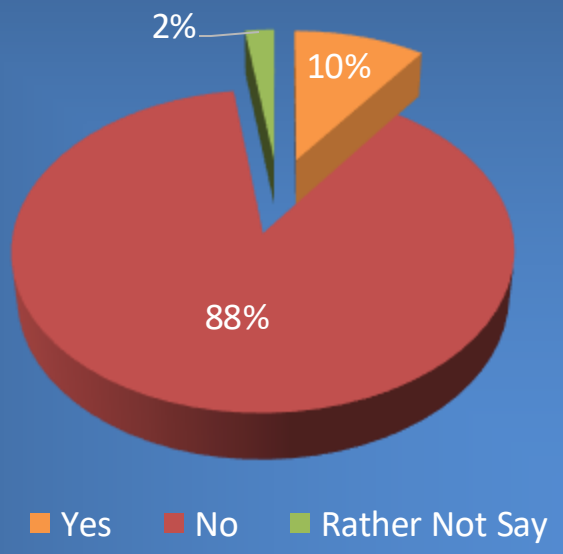
SUBSIDIZED INTERNET AWARENESS & PARTICIPATION

- Only 1 in 4 households state that their Internet provider offers an income-based subsidy, although both Comcast and CenturyLink do so.
- 10% of Bellingham households state that they are receiving a subsidized internet service based on their level of household income

Q10: "Does your Internet provider offer a discounted Internet service for households who qualify due to lower income?"



Q9: "Is your household receiving an Internet discount based on your income?"



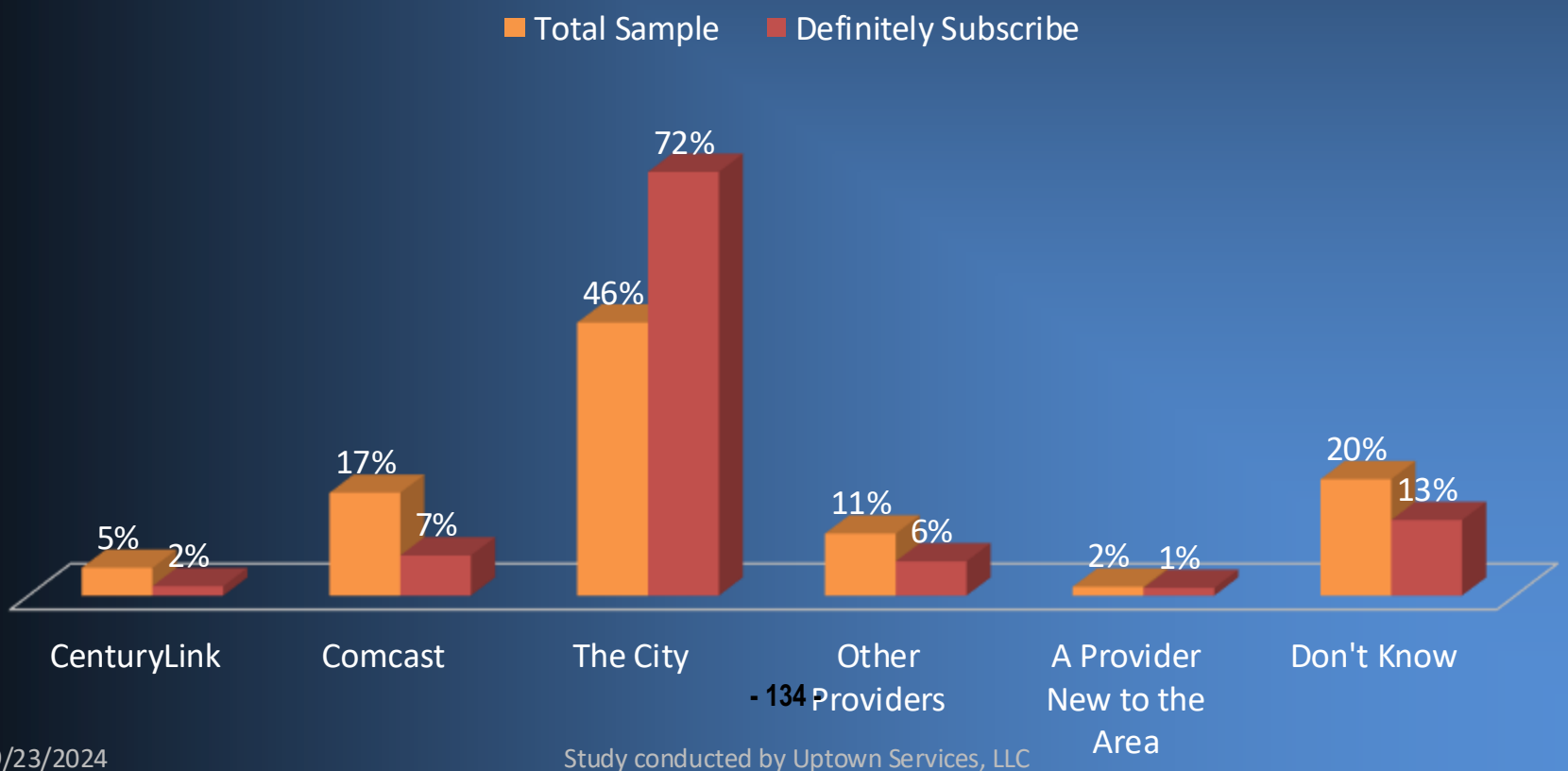
Residential Quantitative Survey

Fiber Broadband Market Potential

PROVIDER PREFERENCE

- 46% of respondents, when given the choice, would prefer to receive high speed Internet from the City, while 17% of respondents prefer Comcast. Preference for the City as the provider increases to 72% among households likely to subscribe.

Q26: *"Among the following list of potential providers, who would you prefer to receive high-speed Internet service from?"*



TESTED RESIDENTIAL INTERNET PRICE POINTS

The quantitative survey evaluated household purchase intent taking into consideration a range of download speed options:

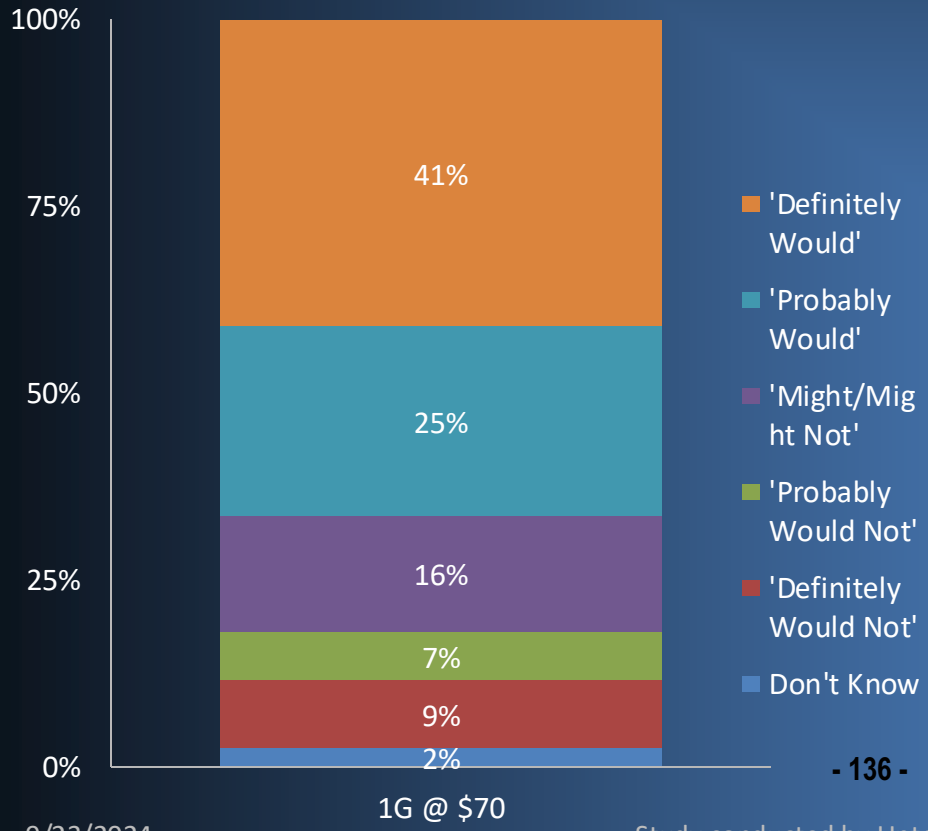
- All participants were presented with a 1Gbps Internet service priced at $70/month
- Multi-Gig tier options were presented to participants that stated they would 'definitely' or 'probably' subscribe to the 1G tier

Internet Tier Download / Upload	Monthly Price: Standard
1G / 1G	$70
2G / 2G	$110
4G / 4G	$150

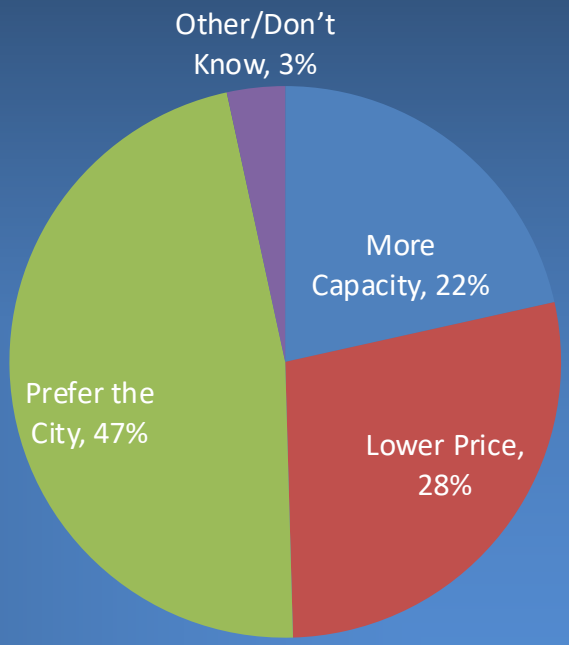
PURCHASE INTENT: ENTIRE SAMPLE

- At a $70 price for 1G, 66% of respondents indicated they would definitely or probably switch their Internet service to a fiber system installed by the City
- Among those most likely to switch, the primary motivation is brand preference

Q22: *Stated purchase intent for:*
- Internet at $70/mo. for 1Gbps



Primary Reason to Switch
(Definitely or Probably Response)



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PENETRATION CALCULATIONS

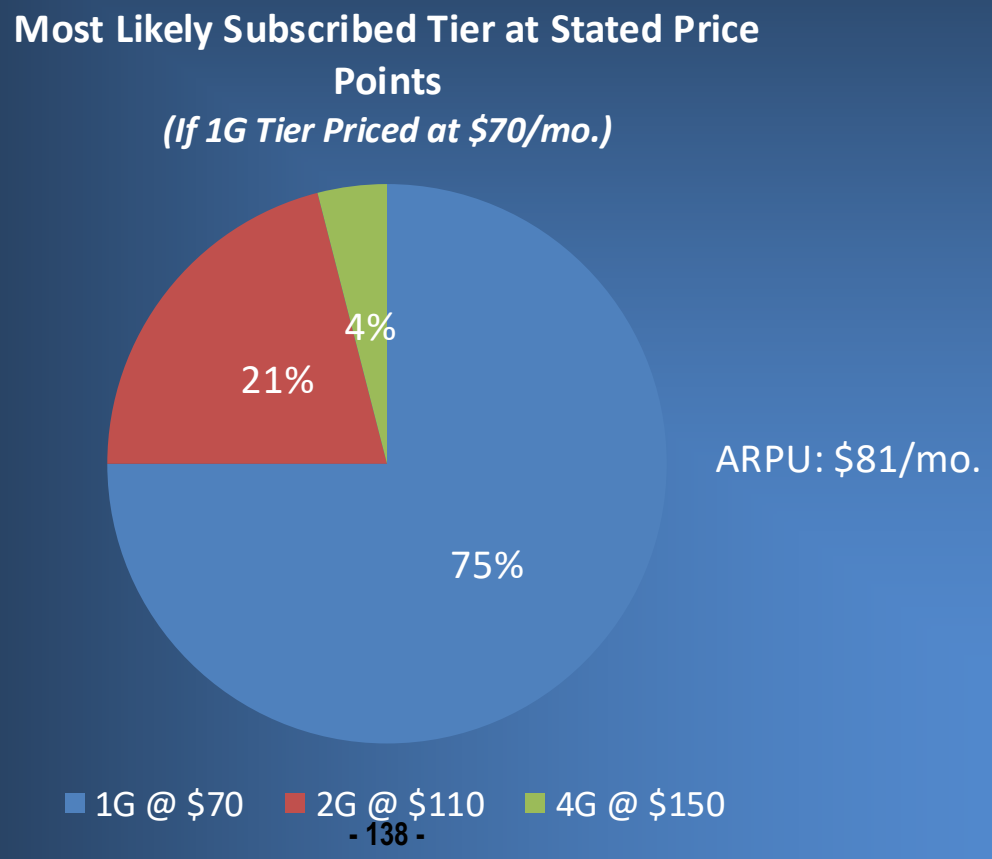
- Uptown uses a 'Likert Scale' with Overstatement Adjustment
  - Conservative research techniques from the Packaged Goods sector
  - Clearly specify purchase intent vs. "interest" and removes overstatement bias
- Example: "How likely would you be to subscribe?"
  - Definitely Would 41.1% x 70% = 28.8%
  - Probably Would 25.2% x 30% = 7.6%
  - Might/Might Not 15.6% x 10% = 1.6%

37.9% = Penetration Estimate

Survey Cell	Broadband Service	Estimated Take Rate (Year 5)
All Sample	1G Internet @ $70	37.9%

INTERNET DISPERSION & ARPU

At the tested price points, 25% of households that would definitely or probably subscribe would opt for a multi-gig tier. The resulting Average Revenue Per User (ARPU) is $81 per month…

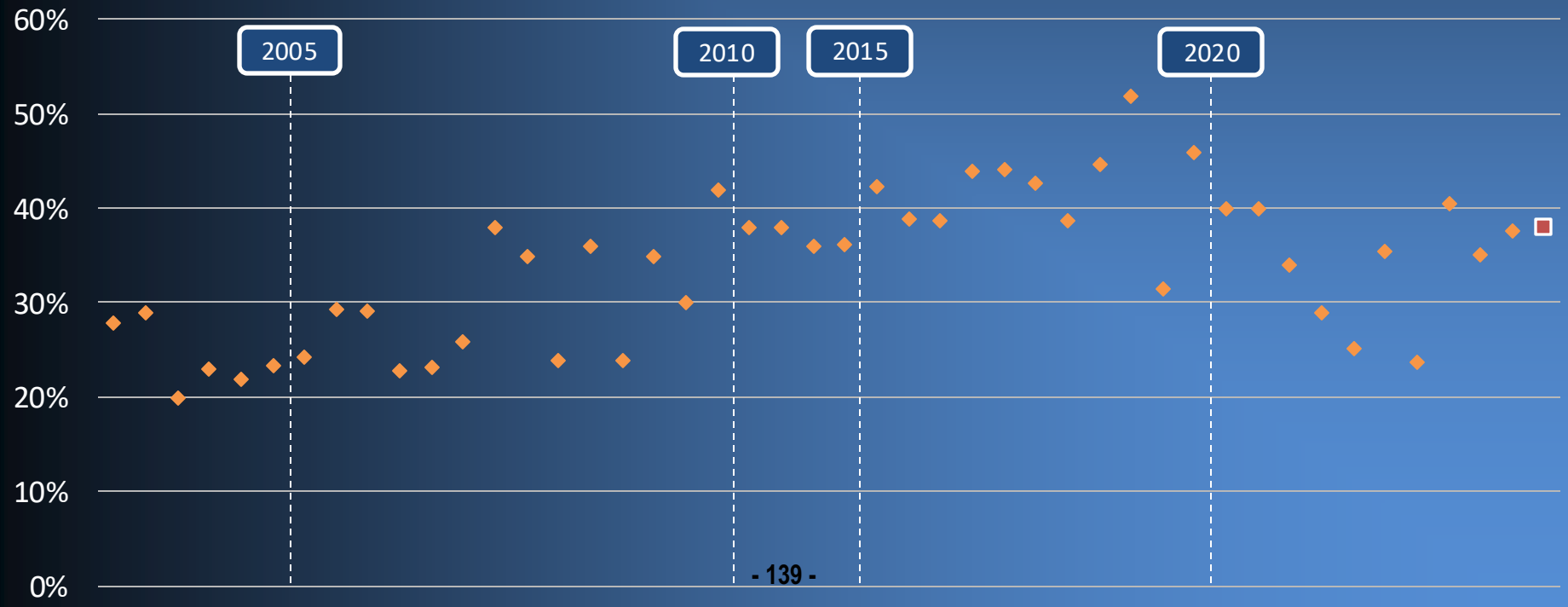


PURCHASE INTENT BENCHMARKING

While markets vary across many factors, prior surveys provide anecdotal reference points:

- 47 quantitative surveys completed since 2003
- Mean forecasted penetration of 34%, with minimum of 20% and maximum of 52%
- Red square observation is Bellingham

Research Derived Penetration Estimate
(quantitative survey outcomes)



Residential Quantitative Survey

Selected Analysis by Neighborhood

SAMPLE SIZES BY NEIGHBORHOOD

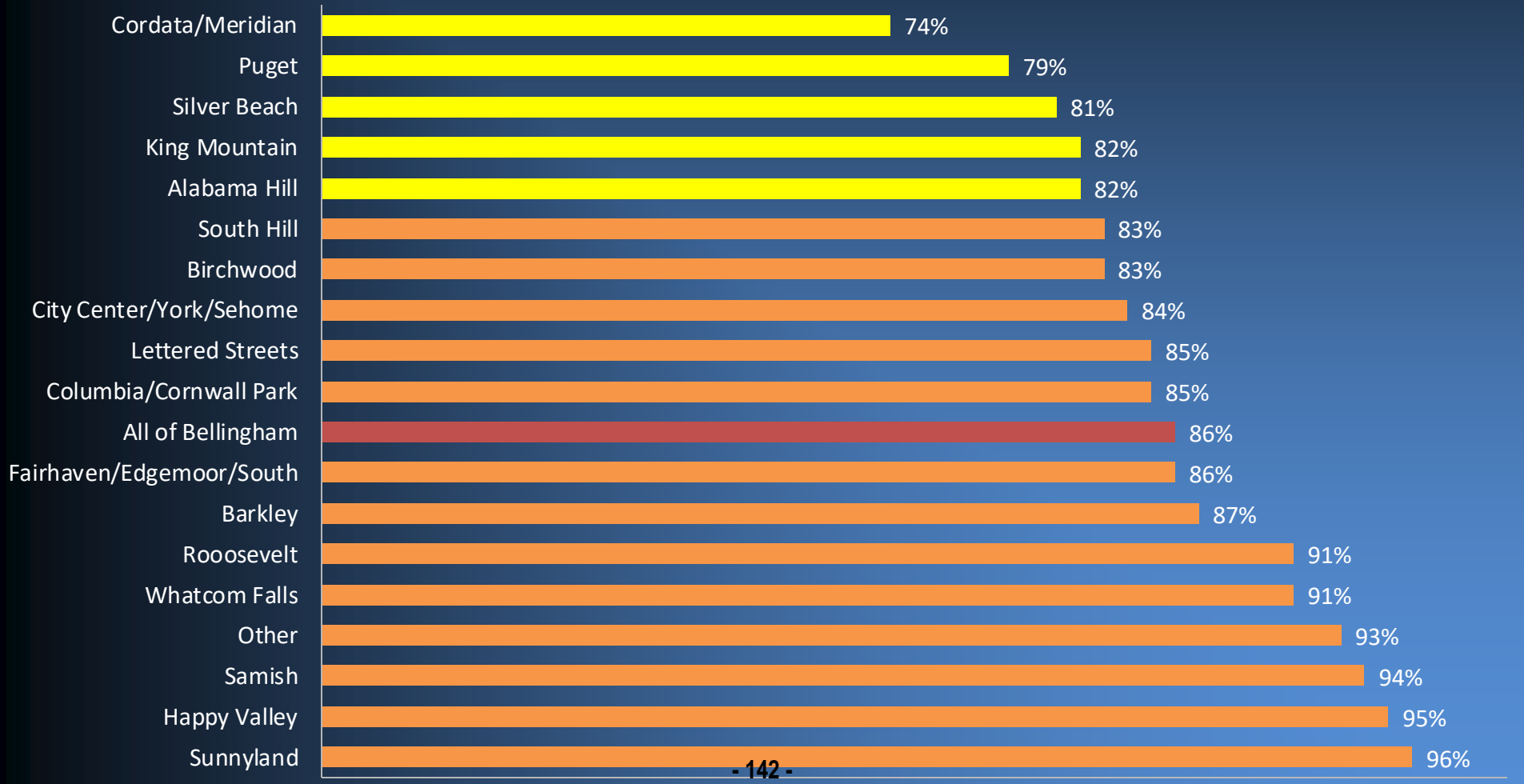
- The survey captured the residential neighborhood of each participant. Of the sampled neighborhoods, 8 had a final sample size of less than 50. Combining smaller sample areas resulted in a total of 18 neighborhoods with sample sizes of ≥ 50…

Neighborhood	Sample Size
Alabama Hill	65
Barkley	89
Birchwood	75
Happy Valley	101
King Mountain	53
Lettered Streets	50
Puget	75
Rooosevelt	88
Samish	87
Silver Beach	71
South Hill	71
Sunnyland	77
Whatcom Falls	65
Other	50

Neighborhood	Combined Sample
City Center	155
York	
Sehome	
Columbia	123
Cornwall Park	
Cordata	137
Meridian	
Fairhaven	91
Edgemoor	
South	

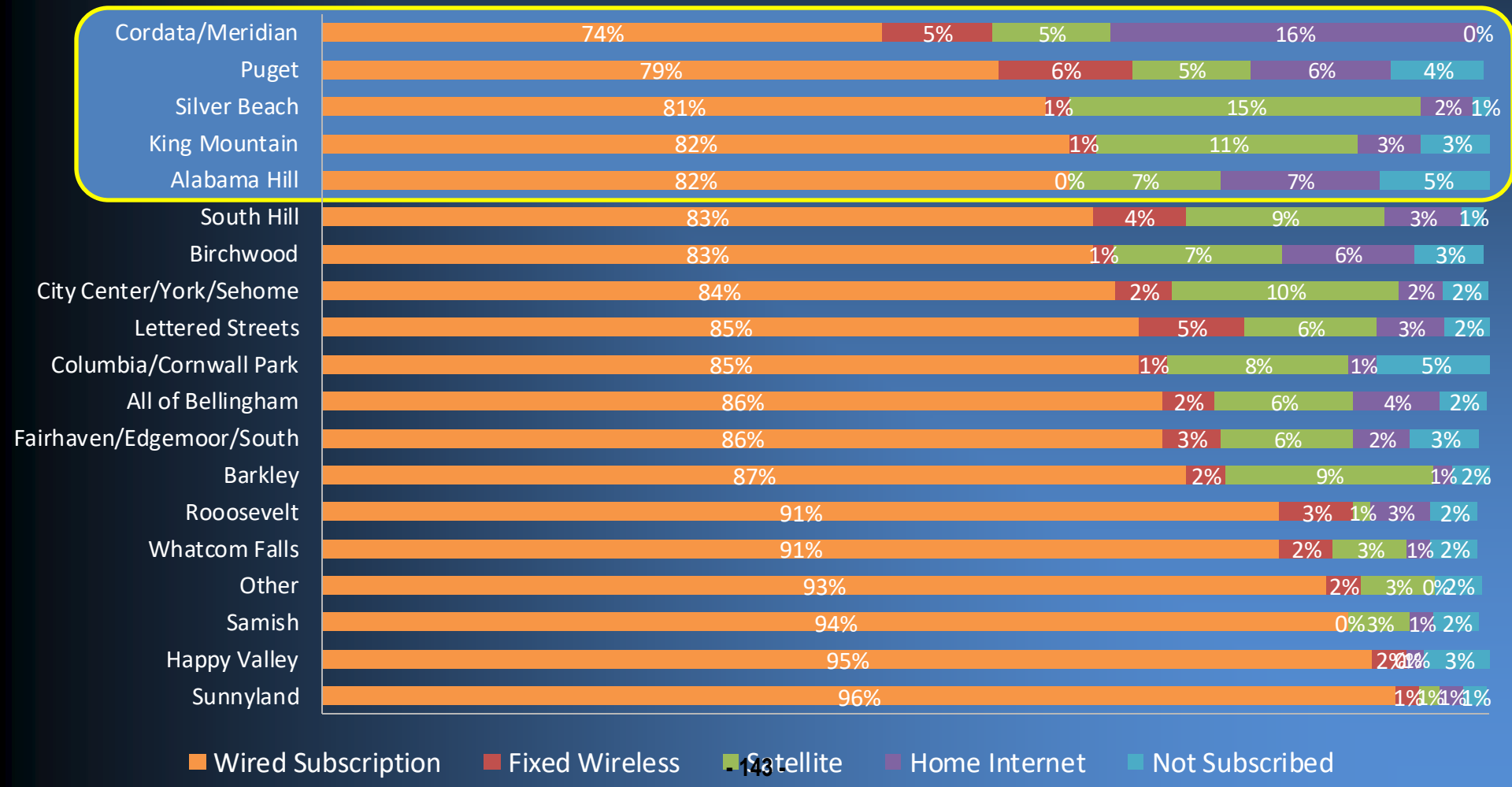
INCIDENCE OF WIRED INTERNET SUBSCRIPTION BY AREA

- There are 5 neighborhoods that have wired broadband subscription levels lower than 83%...



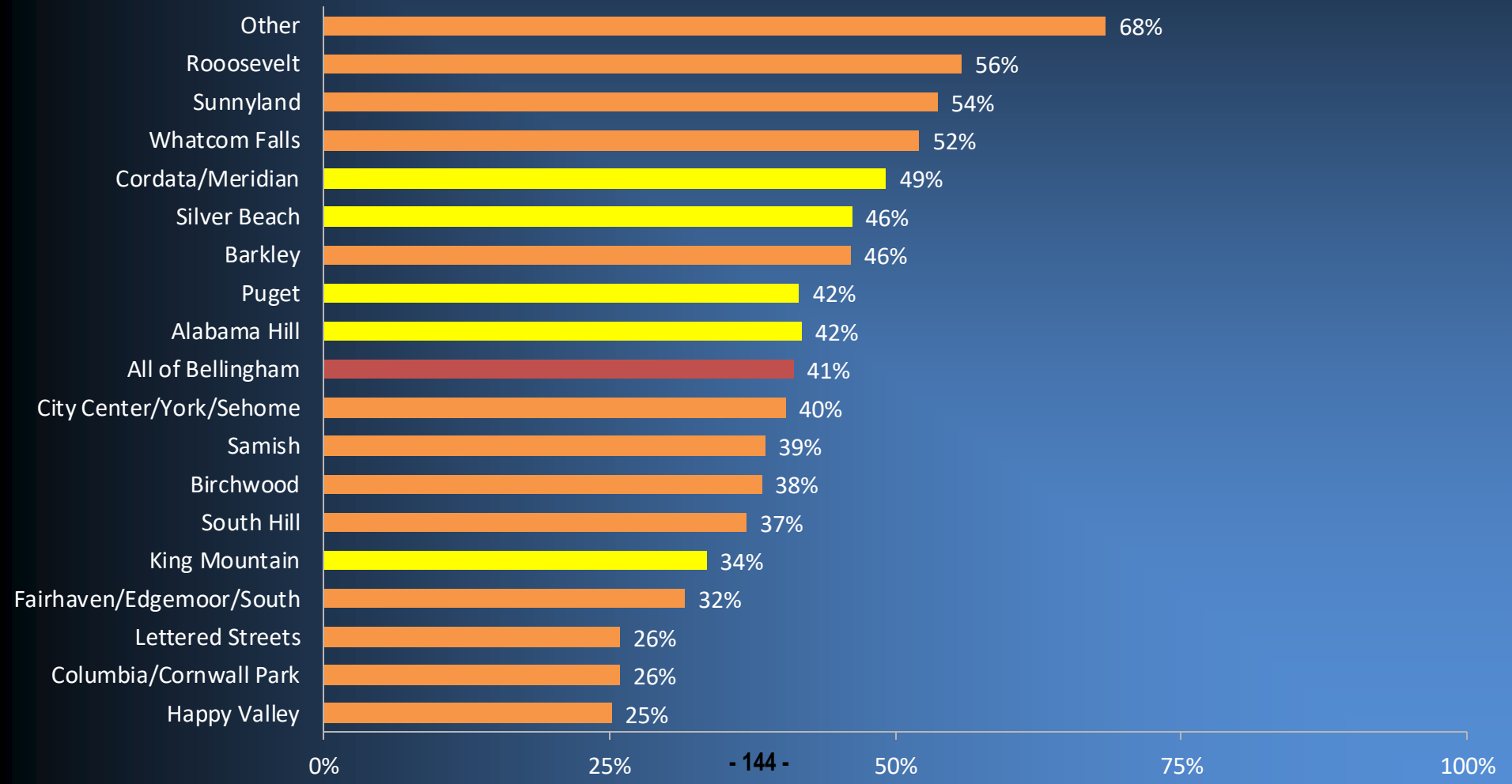
TYPE OF INTERNET SUBSCRIPTION BY AREA

- These 5 neighborhoods have a higher incidence of fixed wireless, satellite and/or home Internet subscriptions...



'DEFINITELY SUBSCRIBE' PURCHASE INTENT BY AREA

- Of the 5 "underserved" neighborhoods, 4 have "Definitely Subscribe' purchase intent above the average of 41%...



SUMMARY OF RESIDENTIAL RESEARCH FINDINGS

- 98% of households use Internet at home with 86% using a wired connection. Comcast is the dominant provider.
- Household income below $50k slightly reduces incidence of a wired Internet connection. For lower income households that do have Internet, subscribed speeds are significantly lower then higher income homes.
- Overall Internet satisfaction score is 5.7 on a 1-10 scale. The percentage of very satisfied households (rating 9 or 10) is just 11% overall due to dissatisfaction with price and customer service.
- Lower prices is the predominant need, followed by improved speed, reflecting a desire for better Internet value.
- 49% of households state their ideal Internet speed would be 1G or higher. This increases to 69% among those who would definitely subscribe.
- 10% of Bellingham households are participating in the ACP program and may be subject to losing the $30 monthly discount within the next 1-2 years.
- About 50% of households currently are under-utilizing Internet capacity due to affordability issues.
- The forecasted take rate for 1G Internet priced at $70/month is 38% after overstatement adjustment. This take rate benchmarks above average compared to other studies.
- The City is the preferred provider by 46% of households. This increases to 72% among those who would definitely subscribe.

Task 5: Opportunities to Serve Unserved and Underserved Areas

Large Business Qualitative Interviews

COMMERCIAL DATA SERVICES

1. Data: Standard Internet Access
   - Last mile connection can be copper (DSL), coax (cable modem), or fiber (FTTP)
   - HFC: Capacity tiers up to 300M (up to 1.2G with DOCSIS3.1)
   - FTTP: Capacity tiers up to 10G (XGS PON)
   - Shared bandwidth

Data Network Terms
DSL: Digital Subscriber Line
FTTP: Fiber-to-the-Premises
PON: Passive Optical Network
DOCSIS: Cable modem standard
SLA: Service Level Agreement

2. Data: High Capacity Direct Fiber Access
   - Capacity tiers from 100M up to 10G
   - Bandwidth is typically dedicated
   - Requires contract with Service Level Agreement

3. Data: Point-to-Point Transport
   - A private circuit with dedicated capacity between 2 or more client locations (e.g. branch office to server location)
   - Capacity Tiers from 100M to 10G
   - Customized terms dependent upon construction cost, protection required, and off-network hand-offs

HIGH CAPACITY COMMERCIAL MARKET NEEDS

- Typical High Capacity Needs and Desired Service Attributes
  - Infrastructure Availability: Fiber is the Standard
  - Dedicated Capacity: Superior to shared bandwidth connections
  - Competitive Pricing
  - Service Experience: Reliability, Customer Service, and Responsiveness
  - Network Integration: Some entities require national/global tier 1 provider

- High Capacity Providers Bellingham
  - Lumen, Comcast, Astound, Ziply, CSS Communications, and Pogozone

RESEARCH APPROACH

- Qualitative assessment of large business / anchor institution segment
  - 8 Depth Interviews of 30-40 minutes
  - 5 of 8 participants are leased transport users
  - 5 of 5 provided local market details (cost, capacity, etc.)
  - Responses aggregated for confidentiality
- Identify key market characteristics
  - Fiber availability, capacity needs, performance criteria
  - Current price levels, use of contracts, and connection requirements
- Estimate potential market share
  - Satisfaction and switching criteria
  - Openness to City-supported fiber services via an operating partnership

DEPTH INTERVIEW PARTICIPANTS

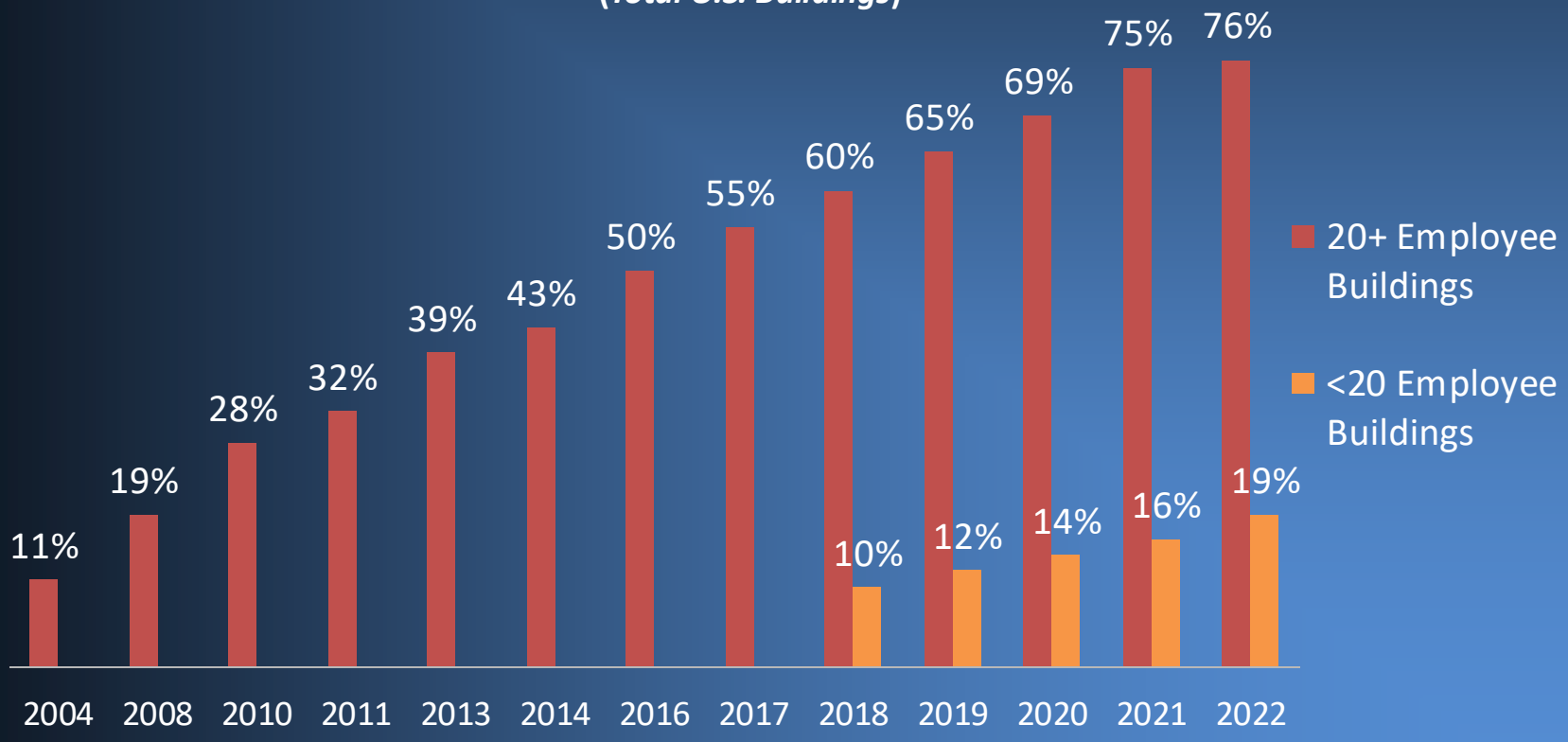
- Leased Transport End Users
  - Port of Bellingham
  - Western Washington University
  - Housing Authority of Bellingham
  - Opportunity Council
  - Dawson Construction

- Service Providers/Local Experts
  - Whatcom PUD: Point Roberts broadband infrastructure grant project
  - CSS Integration & Communications: C Street Data Center
  - Bellingham Public Schools: Fiber backbone co-owner

NATIONAL DEPLOYMENT OF COMMERCIAL FIBER

Nationally, aggressive rollouts of fiber by incumbent and alternative providers have substantially increased the availability of fiber to larger commercial buildings, but smaller locations lag significantly…

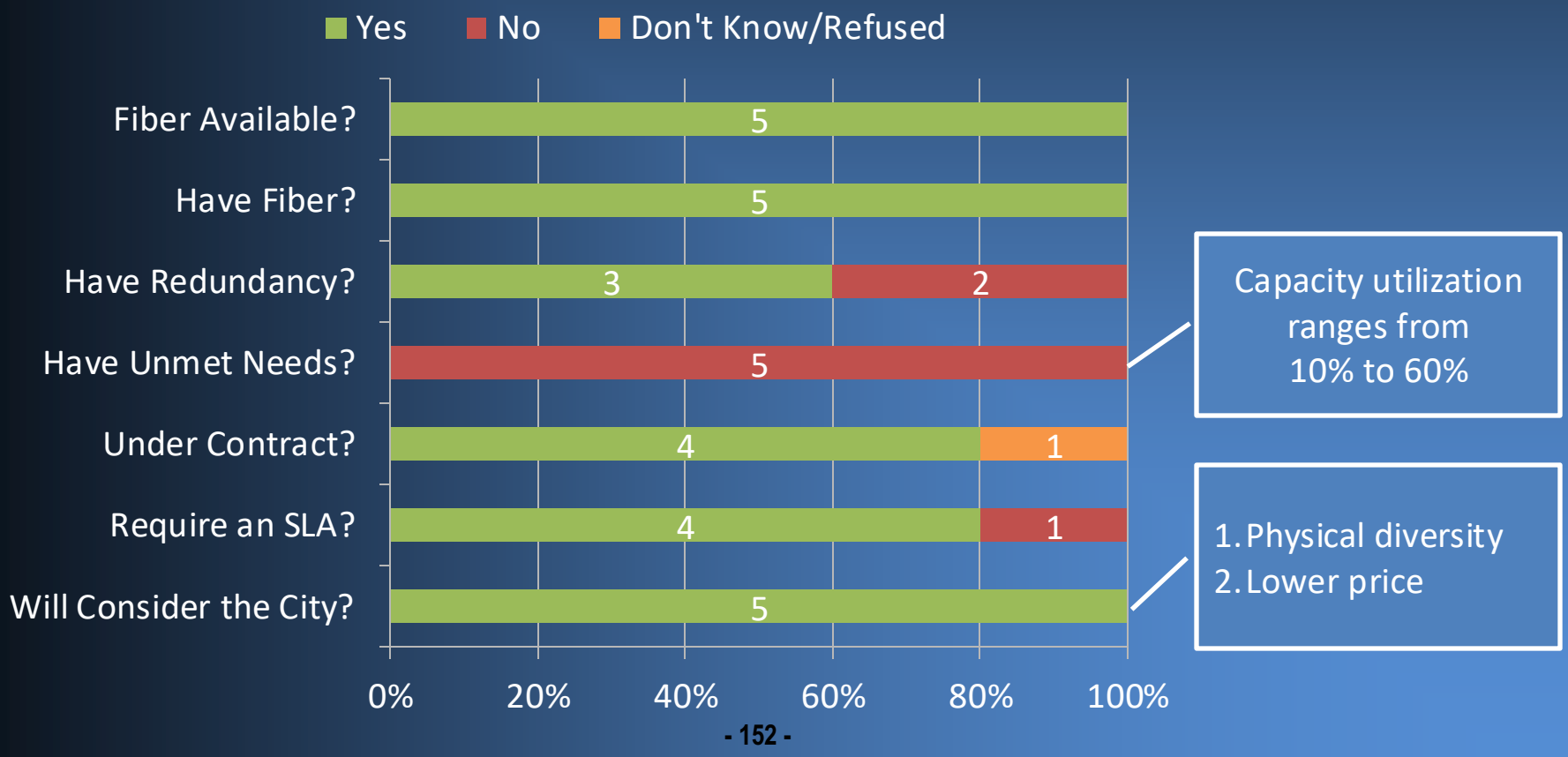
Percentage of Commercial Buildings Served by Fiber
(*Total U.S. Buildings*)



Source: Vertical Systems Group

FIBER IS AVAILABLE BUT WILLING TO SWITCH/ADD

Fiber has been deployed to the participating business locations. Advanced data needs are being met for most, but businesses will "absolutely" consider city fiber infrastructure as a leased transport option, but would require an SLA…

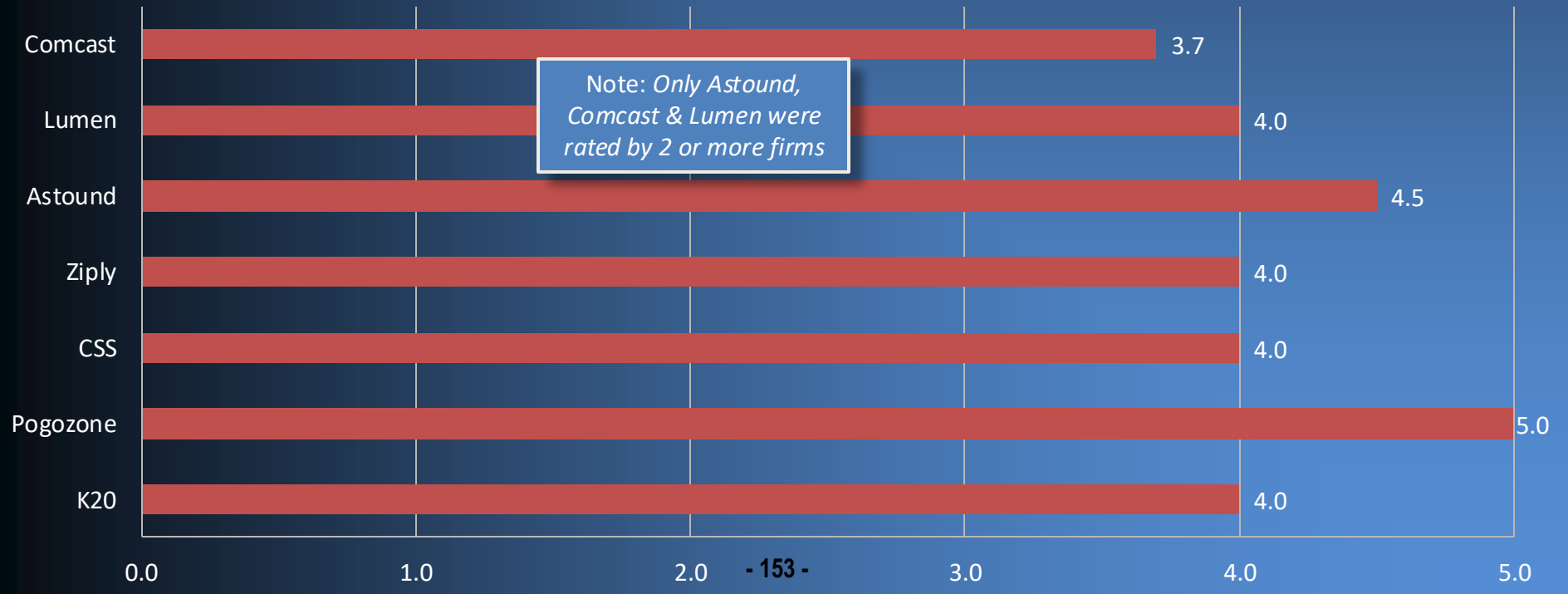


SERVICE PROVIDER SATISFACTION

Satisfaction levels are high when compared to ratings in other markets Uptown has studied

- Overall average satisfaction is 4.1 (typically 3.5 – 4.0)
- Most prevalent areas of dissatisfaction:
  - Lack of value
  - Poor customer service / responsiveness / communication

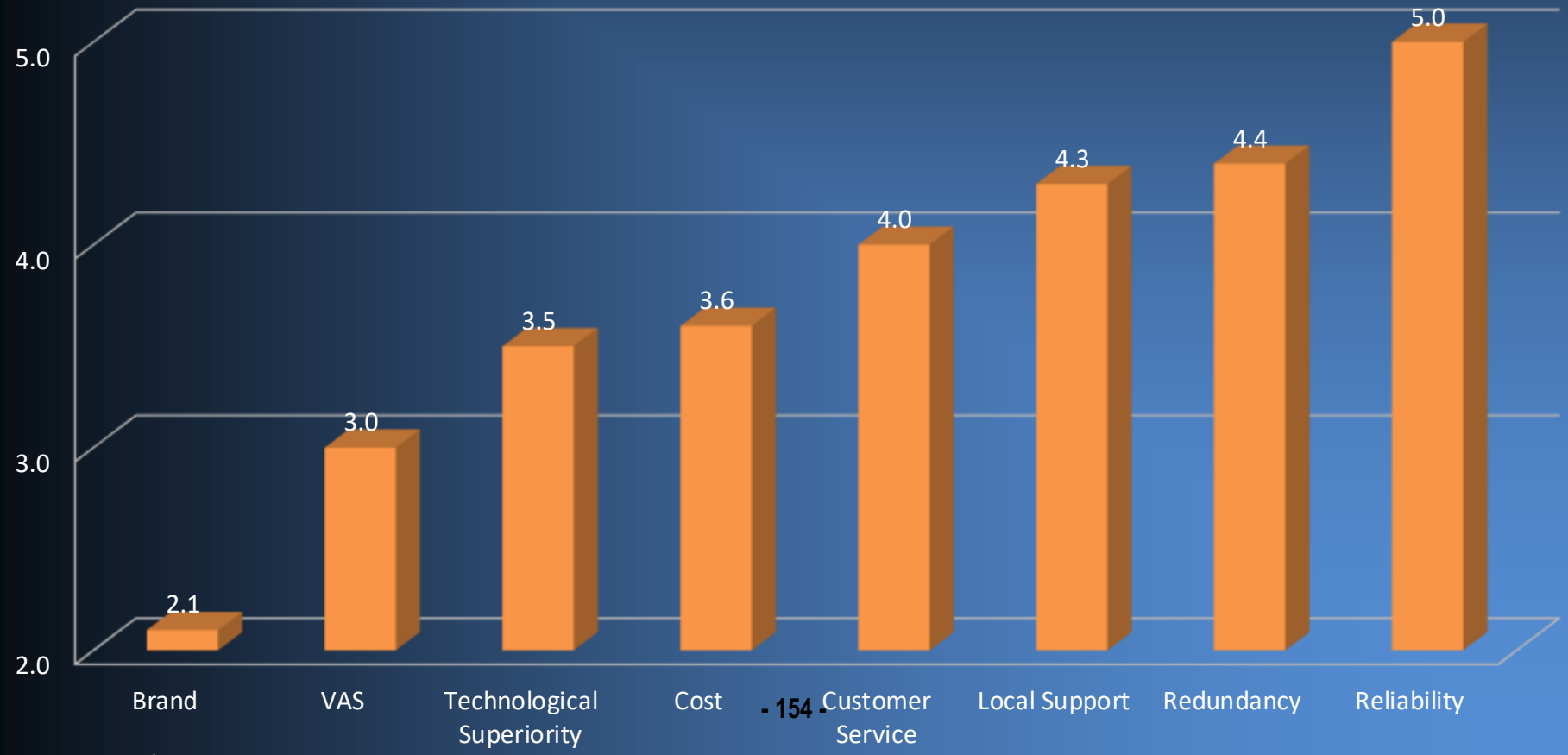
Satisfaction Rating by Service/Service Provider
(Mean Rating on a 1-5 Scale)



SERVICE PROVIDER SELECTION CRITERIA

Among selection factors, reliability, redundancy, and local support rank highest…

Broadband Provider Selection Criteria Importance
(Mean Rating on a 1-5 Scale)



HIGH CAPACITY LOCAL MARKET PRICING

Large businesses and institutions in Bellingham are paying $.04 - $1.50 per Mbps for direct fiber connections. This price range is driven by the leased capacity of the circuit and scale efficiencies. Market averages by capacity for lit, dedicated fiber circuits are approximately:

Circuit Capacity	Monthly Recurring	$/Mbps
1 Gbps / 1 Gbps	$1,000	$1.00
10 Gbps / 10 Gbps	$2,000	$.20
40 Gbps / 40 Gbps	$4,000	$.10

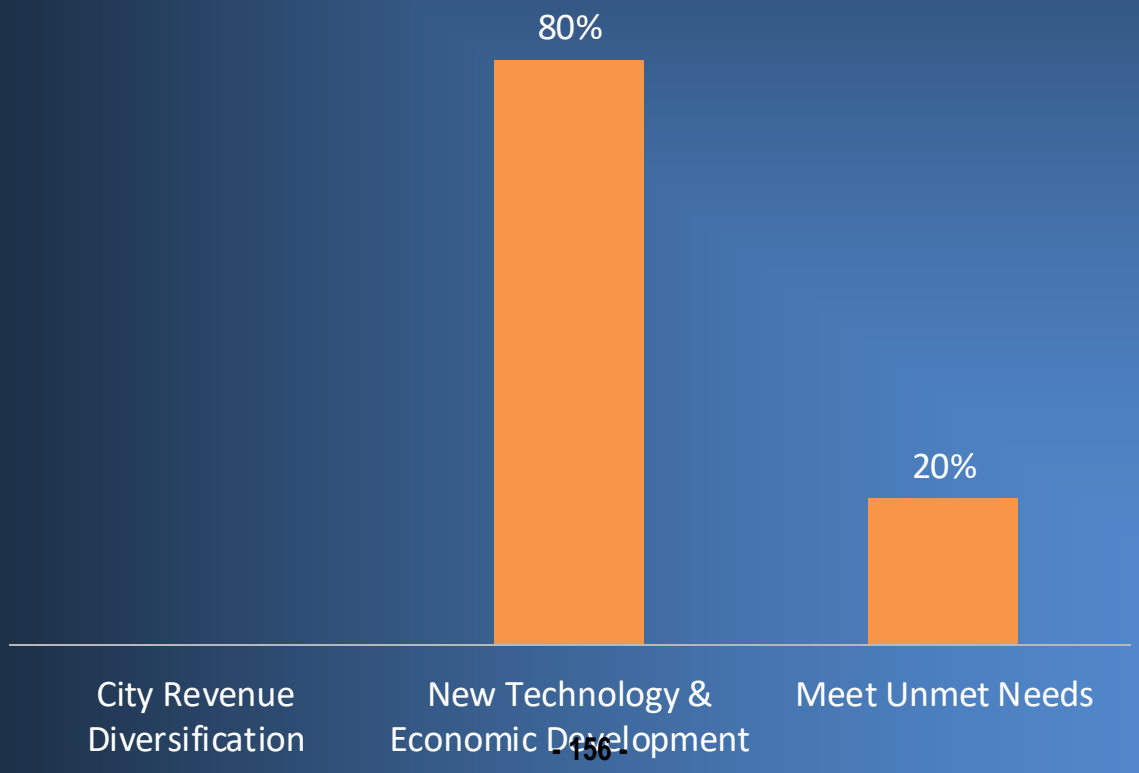
For dark fiber leasing, rates vary significantly by market and route length, with long distance fiber routes in rural areas commanding lower rates than urban fiber routes:

Market Type	Monthly Recurring
Urban	$300/strand mile/month
Rural	$15/strand mile/month

MOTIVATION FOR CITY-PROVIDED BROADBAND

Participants perceive that the most viable goal for the City in pursuing a broadband initiative would be to support the business community as a progressive, growth-oriented project…

Percentage of Respondents by Motivation Choice
(Closed Ended with 3 Options)



SUMMARY OF LARGE BUSINESS RESEARCH FINDINGS

Research Findings:

- Most firms have sufficient fiber and capacity available to them, and satisfaction levels with the incumbents are above average
- Data and broadband services needs are being met, but firms will consider city fiber infrastructure for a data connection if offered.
- Some firms do not have a backup circuit or protection on their connection, creating an opportunity for the city to provide an additional circuit if physically diverse from the current circuit. Route diversity and lower price are key switching factors
- Many firms would require the city, or its operating partner, to include a Service Level Agreement providing financial recourse should network performance fail to meet typical industry standards

Pro Forma:

- Local market pricing for dark fiber leasing is in the range of $300 per strand mile
- Identify total strand miles that would need to be leased for financial breakeven

Task 6: Financial Analysis

Potential Funding Sources

TYPICAL NON-GRANT FUNDING SOURCES

For the baseline financial analysis, both a long term bond and working capital loan were used for funding…

1. Long Term Bond
   - Single round of financing via 20-year tax exempt revenue or GO bond at 4.5% interest
   - 2 years of capitalized interest
   - 1.5% issuance cost
2. Working Capital Loan
   - 11 year term at 4.5% interest
   - Interest accumulates over first 5 years with Year 6 balloon payment
   - Level payments begin in Year 6 and complete in Year 11
3. Wholesale fees paid by the ISP under wholesale partnership models
   - Monthly fee per connected end user, or
   - Monthly fee per connection and per serviceable premises
4. Equity
   - Either upfront or ongoing annual general fund contributions
   - Equity can fund construction capex requirement and/or working capital requirement
5. Local Improvement District
   - Monthly fee assessed to all residential premises as they become serviceable
   - Assessed for full 20 years
6. Customer-funded installation (either upfront or amortized into monthly recurring fee)

Task 6: Financial Analysis

Scenario #1A: Middle Mile Dark Fiber Leasing

Scenario #1B: Middle Mile Leased Access

FINANCIAL FEASIBILITY METRICS

The Uptown pro forma model identifies key financial metrics that we rely on to evaluate financial feasibility of broadband investment projects (example project outcomes follow)…

1. Timeframe to positive operating income
   - Revenue proceeds exceed operating expenses
   - Typical goal is within 4 years

2. Net Payback Period
   - Total project revenue proceeds exceed total investment
   - Typical goal is less than 20 years

3. No Secondary financing
   - Net cash flow including debt service remains positive over the life of the investment
   - Pro forma model identifies an inability of the broadband system to self fund

4. Sensitivity Analysis
   - Reasonable ability to withstand “misses” on key operating or financial metrics
   - Typically sensitive metrics include construction cost, residential take rates, and interest rate on long term debt

DARK FIBER LEASING: MARKET OPPORTUNITY

The market opportunity for leasing dark fiber is primarily reliant upon the level of need for transport capacity by incumbent Internet Service providers. These service providers will lease dark fiber multiple for reasons including:

- To create route diversity and architecture redundancy
- To minimize outside plant construction requirements/costs
- To extend their service area

Total Fiber Route Miles*	219
Aerial Strand Miles	893
Underground Strand Miles	1,425
Total Strand Miles	2,318

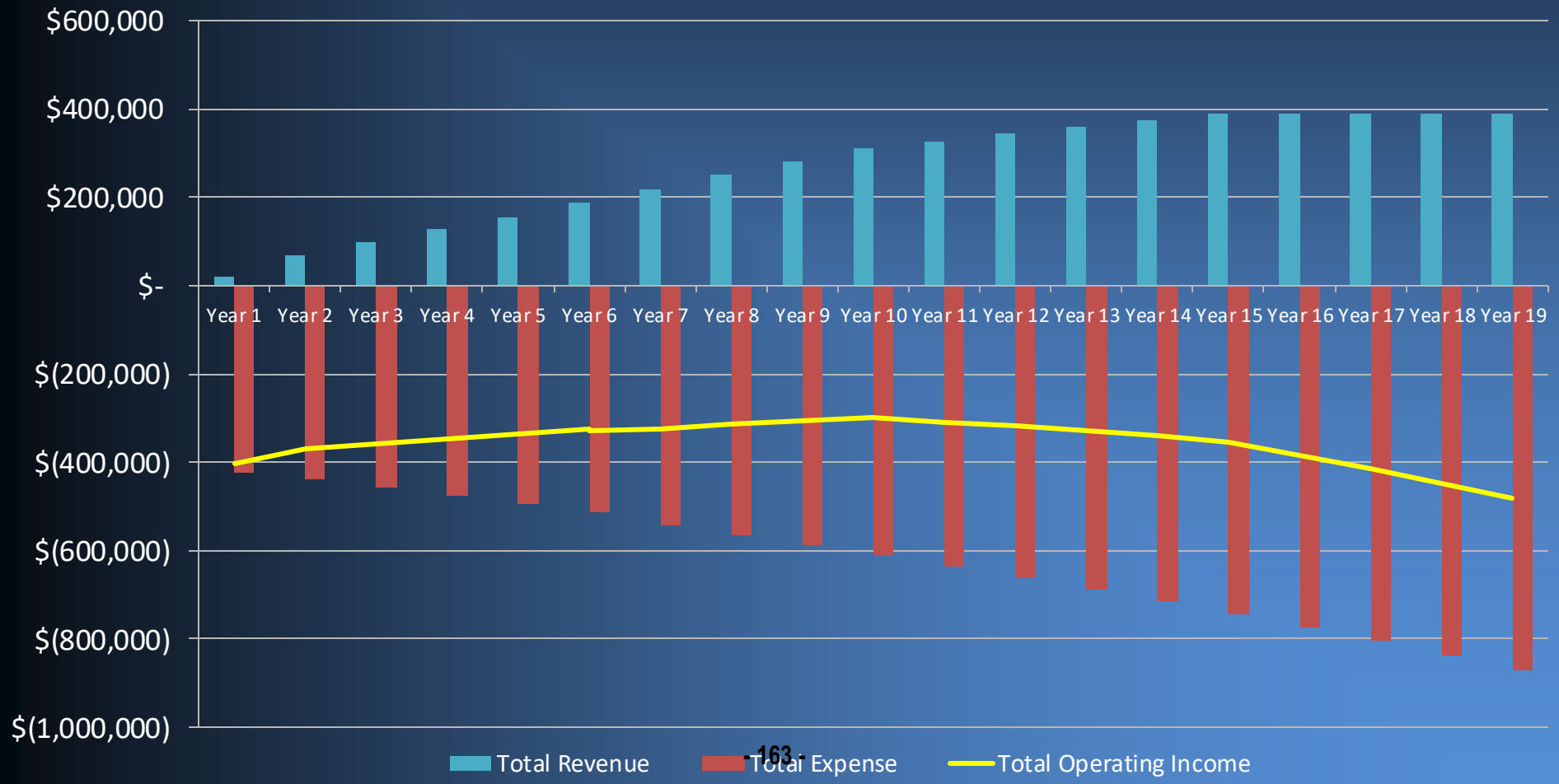
Leased Strand Miles: Year 1	10
Leased Strand Miles: Year 5	40
Leased Strand Miles: Year 10	80
Leased Strand Miles: Year 15**	100

*Reflects strand miles available after all recommended infrastructure upgrades including vault replacements and additional fiber infrastructure construction.

** The Year 15 represents peak leased strand miles with no additional growth over years 16-20.

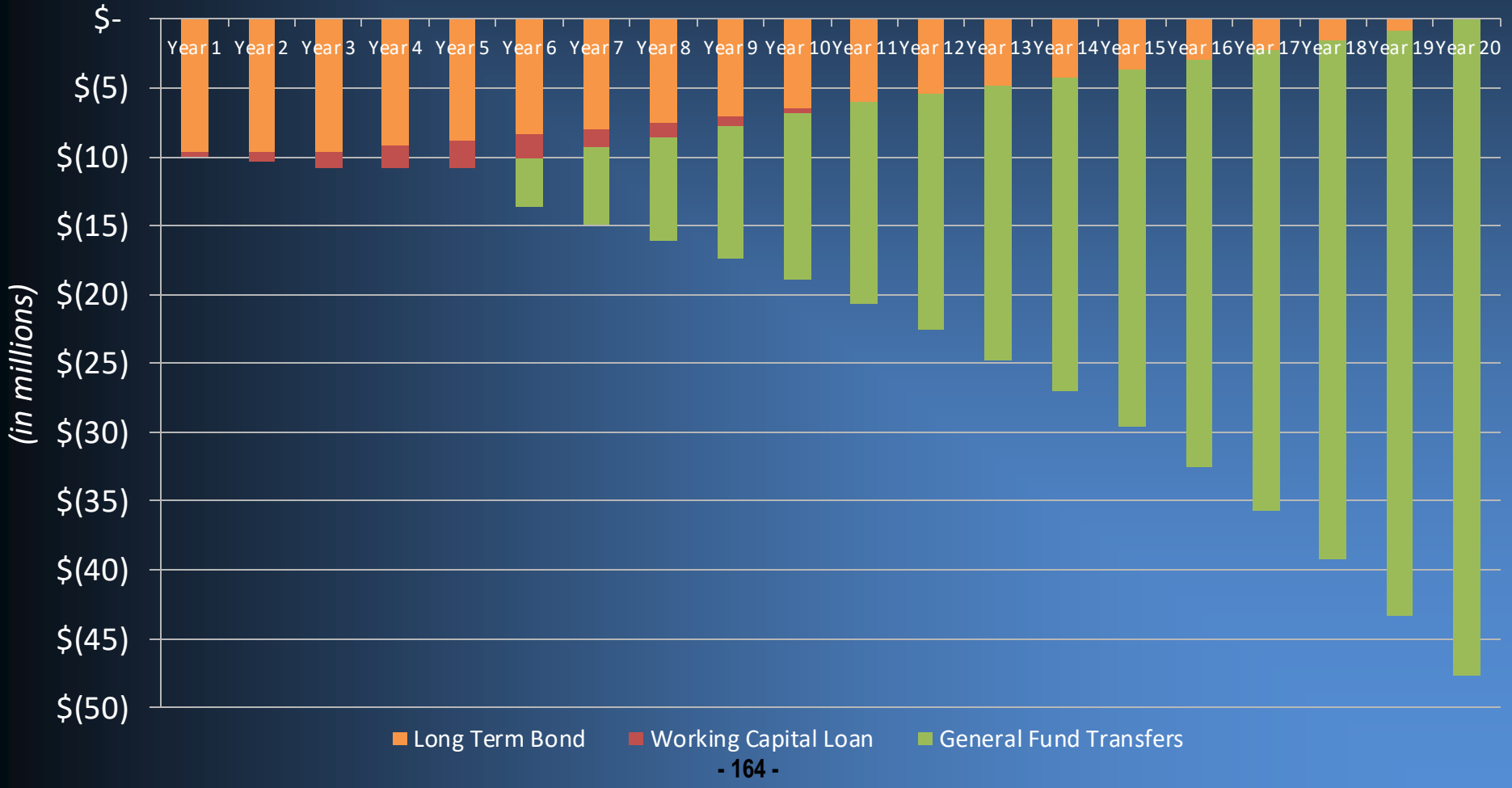
DARK FIBER LEASING: CASH FLOW BEFORE DEBT SERVICE

The anticipated operating income under the dark fiber leasing scenario is not sufficient to generate positive cash flow at any point over the 20 year pro forma forecast. This view excludes debt service costs...

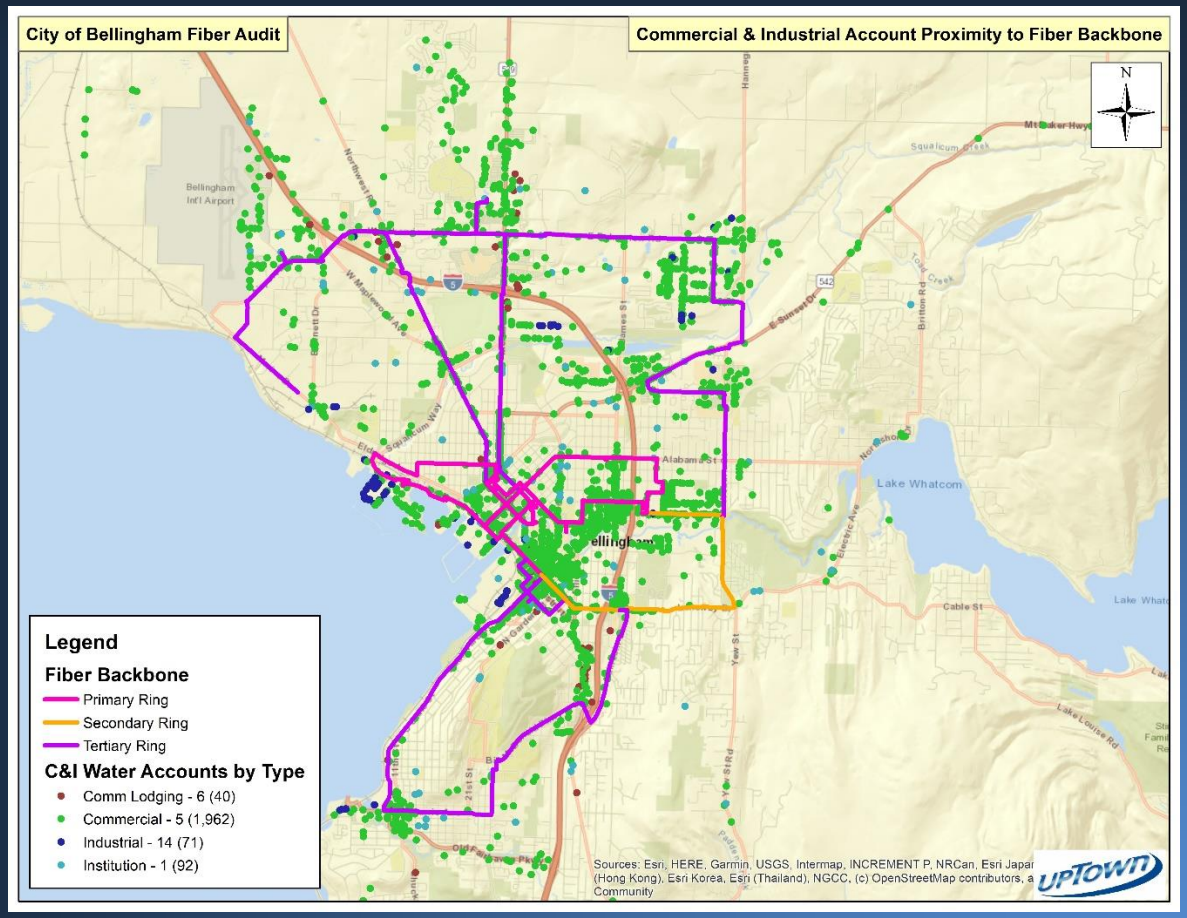


DARK FIBER LEASING: FUNDING SOURCES

With insufficient operating cash flow, the fiber enterprise would need to continue borrowing funds since it would not be financially self sufficient...



LEASED ACCESS: COMMERCIAL ENTITIES

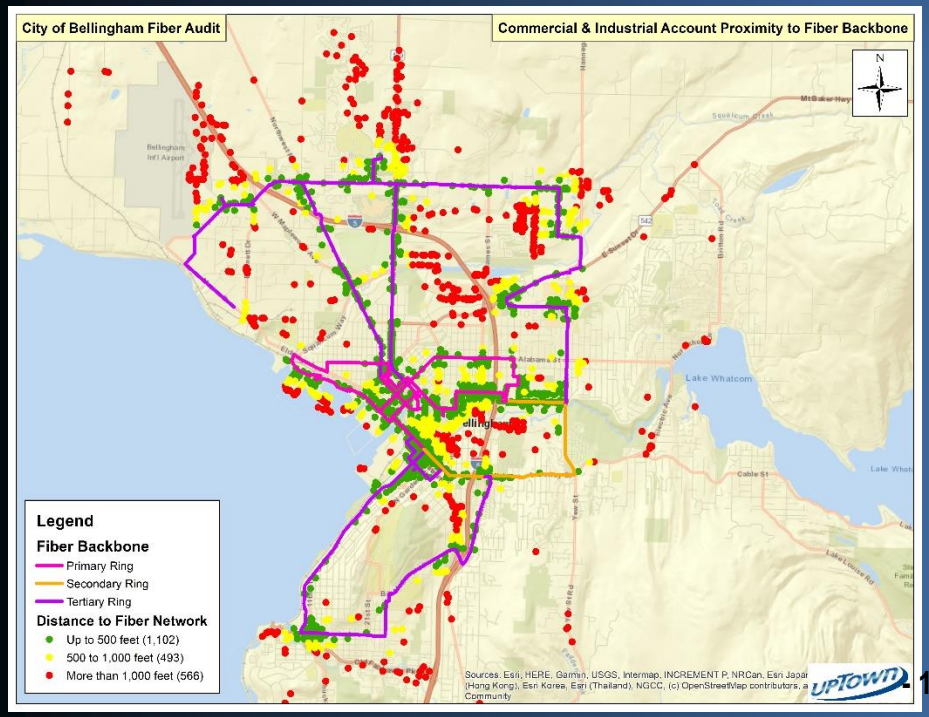


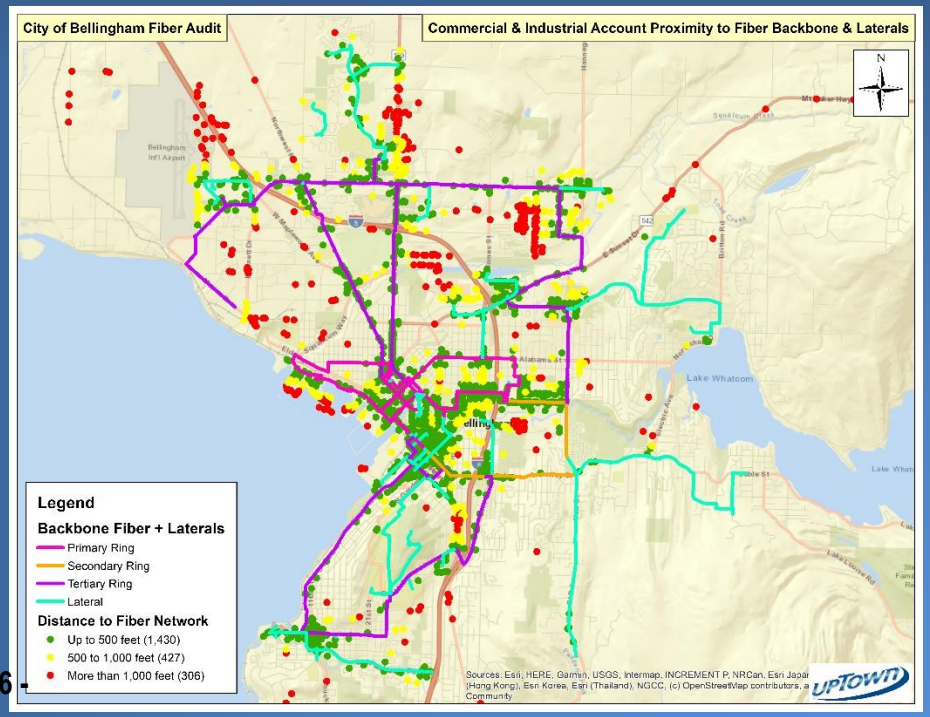
- Commercial & Industrial (C&I) water meter data used to identify potential commercial targets
- Large general commercial market throughout the City – 1,962 meters
- Smaller pockets of industrial accounts scattered around the City – 71 meters

LEASED ACCESS: PROXIMITY TO CITY FIBER

- Proximity to Upgraded Fiber Backbone Only
  - 1,102 commercial and industrial (C&I) water accounts within 500 feet of an upgraded fiber segment
  - Additional 493 C&I accounts within 1,000 feet of an upgraded fiber segment

- Proximity to Fiber Backbone Including Laterals
  - 301 commercial and industrial (C&I) water accounts within 500 feet of an existing lateral
  - Laterals would need to be evaluated as capable to support fiber leasing on a case-by-case basis





LIT FIBER ACCESS: MARKET OPPORTUNITY

The market opportunity for leasing lit fiber access is influenced by the presence of alternative providers as well as the distance to the entity from the fiber route (i.e. higher incremental capex required to extend the fiber). While longer laterals require more construction cost, there will be less competition to build to these entities. Accordingly, Uptown is holding take rate constant across lateral lengths…

# of Entities by Distance to…	≤ 500 ft.	500-1,000 ft.	≥ 1,000 ft.	Total
Fiber Backbone	1,102	493	566	2,162
Fiber Backbone + Laterals	1,430	427	306	

Mean Lateral Construction Cost	≤ 500 ft.	500-1,000 ft.	≥ 1,000 ft.
Per Entity w/ Aerial Lateral	$5,744	$23,262	$78,561
Per Entity w/ Underground Lateral	$14,560	$58,960	$199,120

Mean Year 5 Take Rate	
Prospects as % of All Commercial	10% or ≈ 220
Year 1 Take Rate	2%
Year 8 Take Rate*	20%

*The Year 8 take rate reflects 'terminal penetration' with no additional take rate growth over years 9-20.

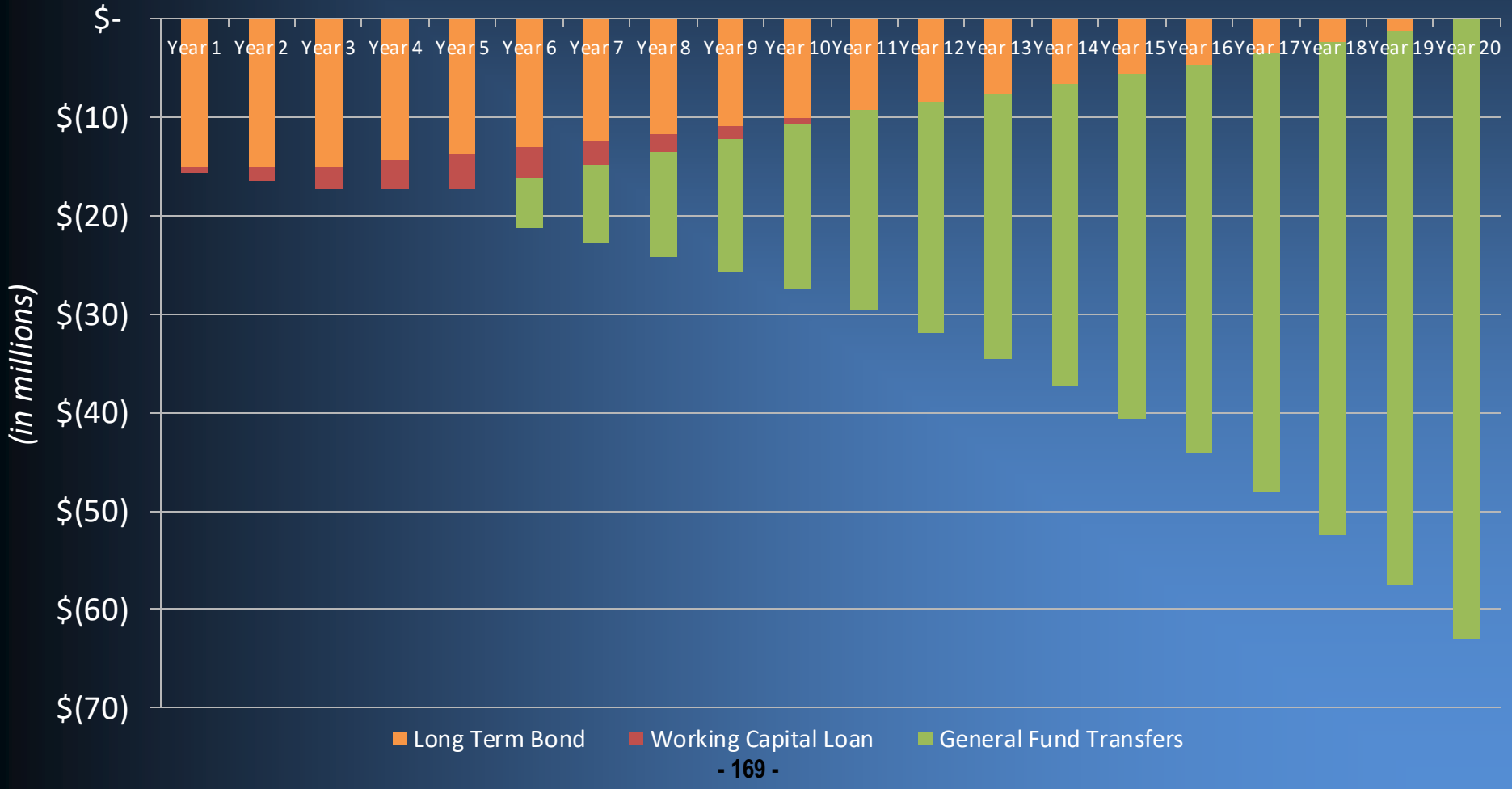
LEASED ACCESS: CASH FLOW BEFORE DEBT SERVICE

While significantly improved compared to dark fiber leasing alone, the financial opportunity of offering leased access services is similarly weak in terms of anticipated operating income. This view excludes debt service costs…



LEASED ACCESS: FUNDING SOURCES

With insufficient operating cash flow, the fiber enterprise would need to continue borrowing funds since it would not be financially self sufficient...



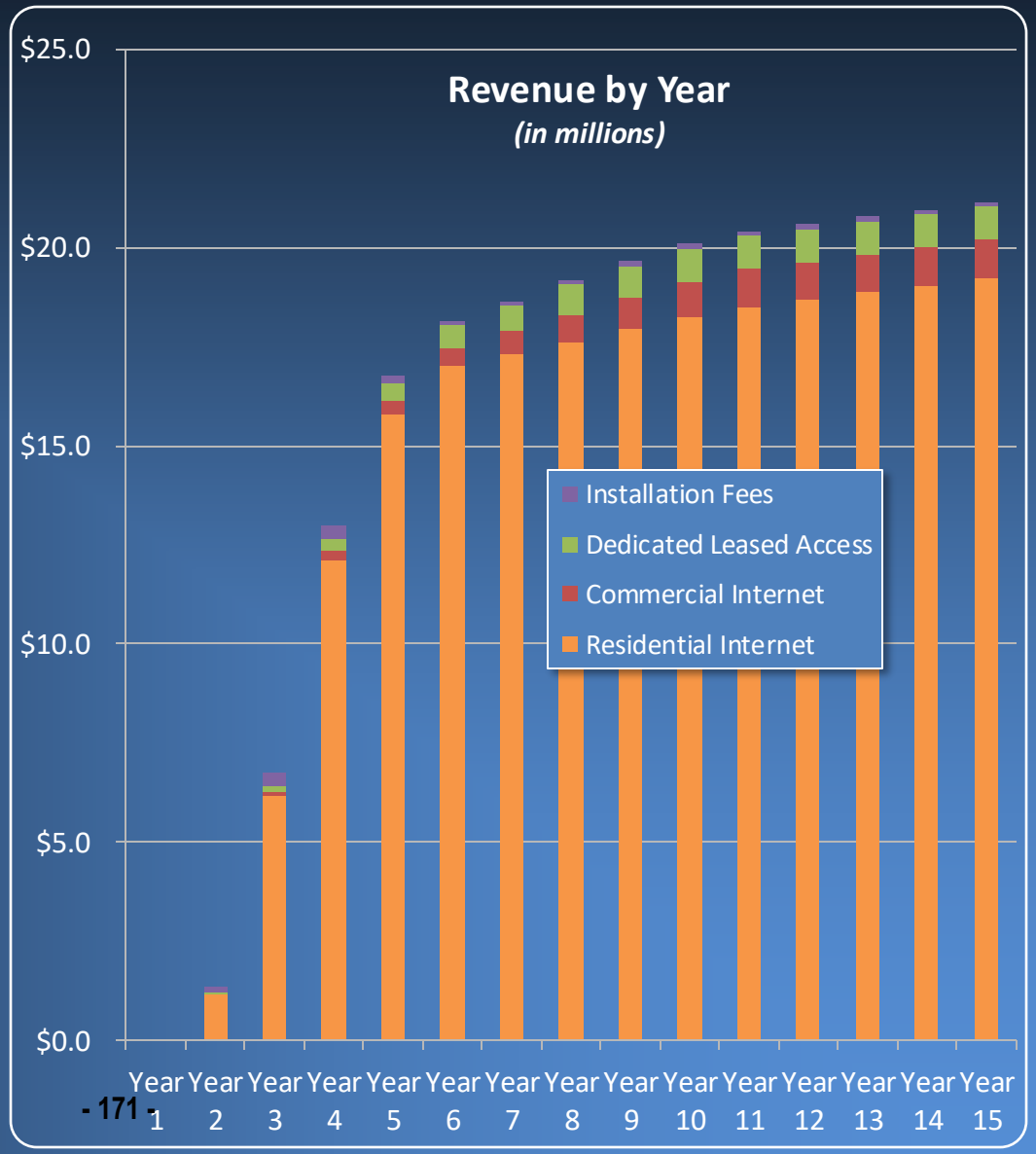
Task 6: Financial Analysis

Scenario #2: Last Mile Retail Broadband

LAST MILE: REVENUES

KEY INPUTS

- Timing
  - Year 1: 0 months
  - Year 2: 10 months
- Year 1 Premises
  - Residential SFU: 39,000 (1.9% growth)
  - Commercial: 2,165 (1.0% growth)
  - % Complex: 10% of commercial
- Year 5 Penetration (Internet)
  - Residential: 38% (Year 5)
  - Commercial: 35% (Year 10)
- Residential Internet
  - 1Gbps Tier: $70
  - 2Gbps Tier: $110
  - 4Gbps Tier: $150
  - WiFi Upgrade: $10
- Commercial Internet
  - 100Mbps Tier: $80
  - 500Mbps Tier: $150
  - 1Gbps Tier: $200
  - WiFi Upgrade: $20
- Install Fees
  - Residential: $50
  - Commercial: $100



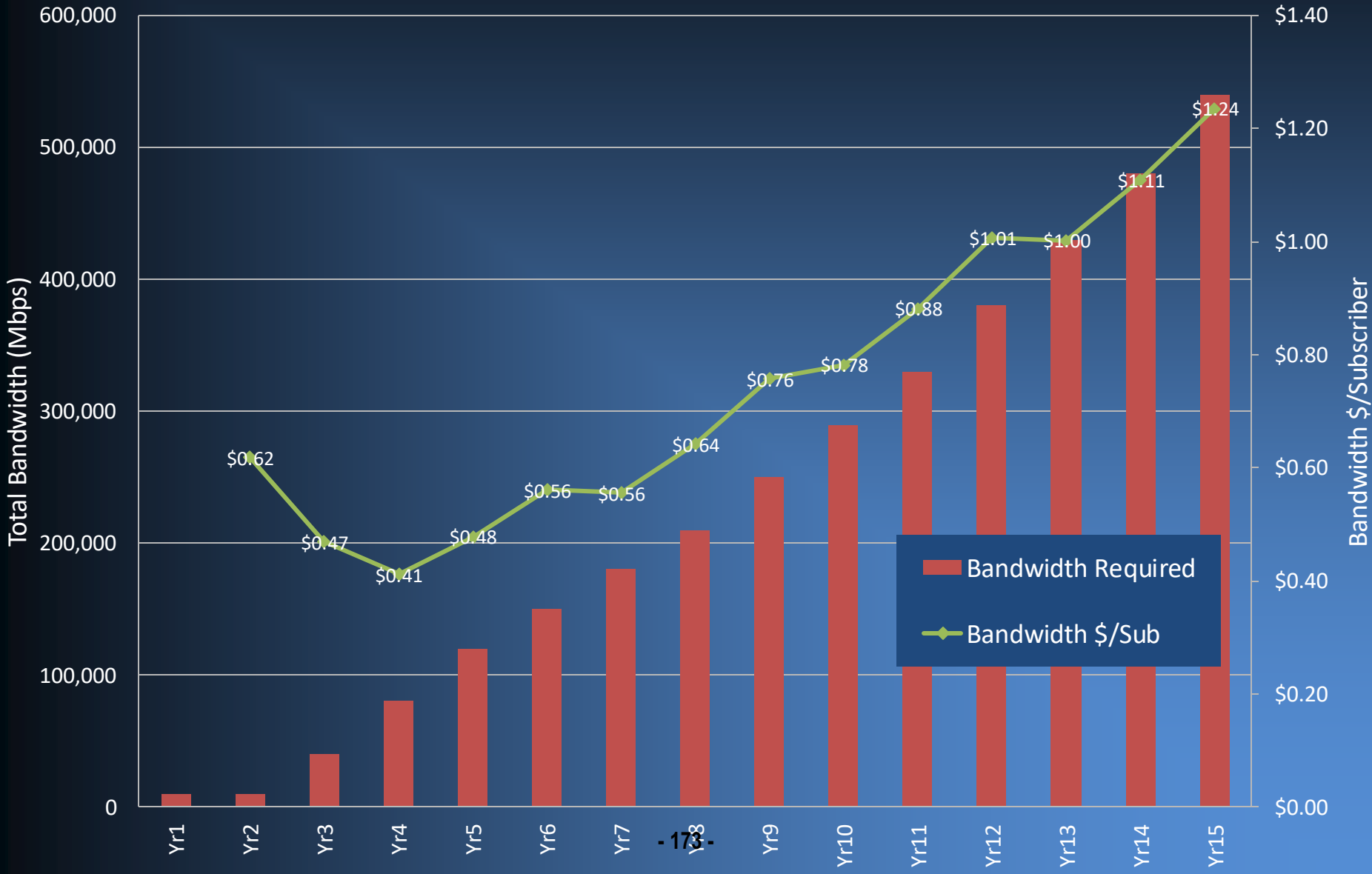
- 171 -

LAST MILE: BANDWIDTH SOURCING

If the City becomes a retail ISP, much greater bandwidth capacity will be required. Leasing transport circuits to diverse data centers as a member of the National Content & Technology Cooperative (NCTC) is recommended to achieve significant volume discounts. The NCTC has secured master purchasing agreements with Zayo, Windstream and Cogent…

	Direct Access Configuration at Carrier-Neutral Data Centers
Transport	Use 2 existing city-owned fiber circuits terminating at: • Lunavi Data Center at 851 Coho Way: No incremental fee • Ziply Standby Circuit at corner of Iowa and Woburn: No incremental fee
Access	At both locations, circuits terminate in the Lunavi Meet-Me Room for access to the greater Internet via multiple bandwidth providers. Lease capacity in 10G increments of Committed Data Rate capacity: • Provider "A": 10G bandwidth for $700 MRC/$0 NRC and 1 year term • Provider "B": 10G bandwidth for $700 MRC/$0 NRC and 1 year term • Provider "C": Non-NCTC Comp for 10G bandwidth for $2,590 MRC/$2,500 NRC
Other Fees	• X-Connect: $300/month per circuit • Lease IP addresses (IPv4): Budgeted at 29¢ each per month • Non-recurring NCTC membership fees: $20,500 • Recurring NCTC membership fees: $3,500 per year

LAST MILE: BANDWIDTH FORECAST

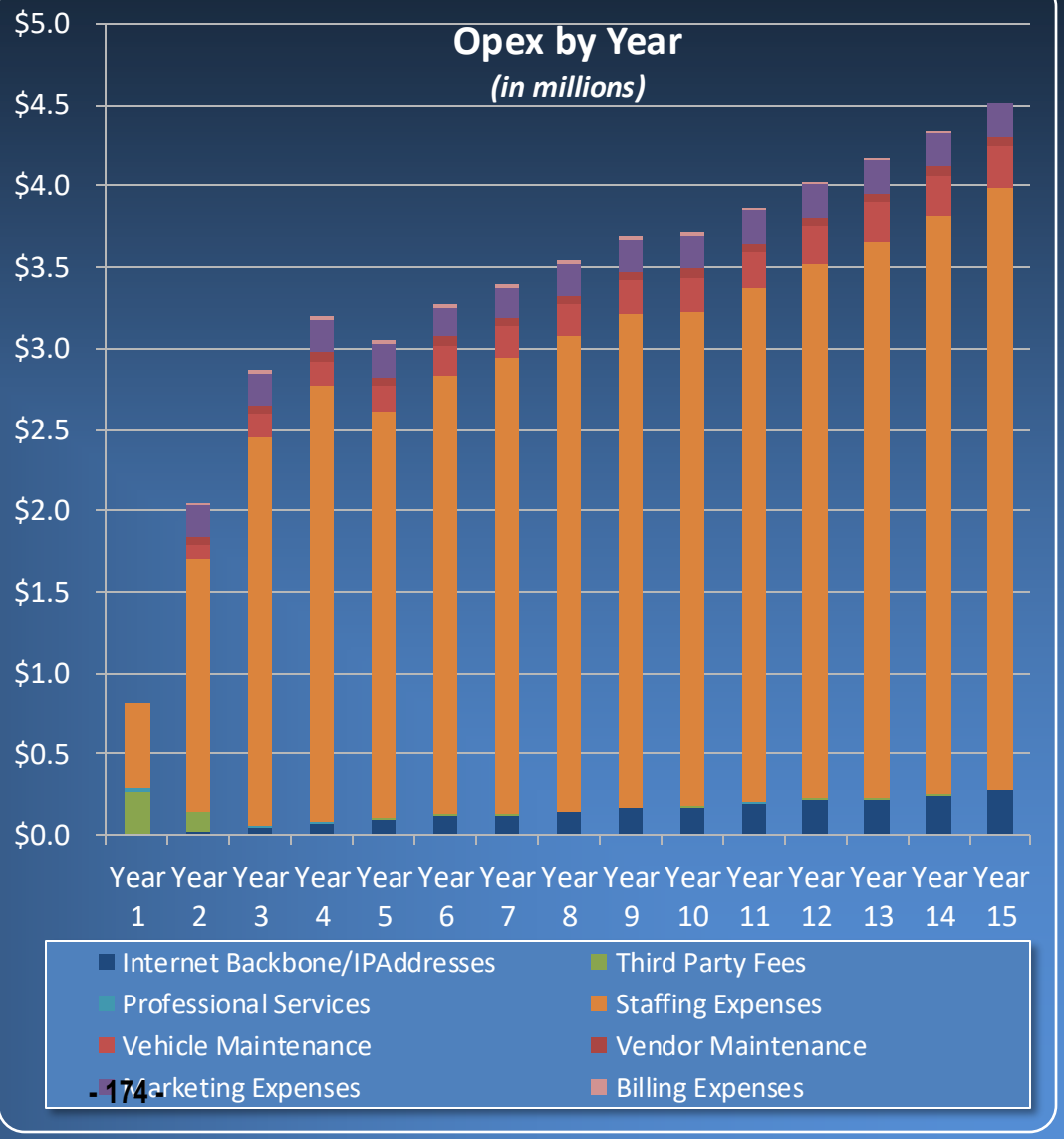


UPTOWN SERVICES, LLC

LAST MILE: OPERATING EXPENSE

KEY INPUTS

- Bandwidth/IP Addresses *(see slide detail)*
- Staffing *(see slide detail)*
  - 22 Full Time Equivalent headcount
  - 4% annual wage increase
  - 40% benefits loading
- Vehicle Maintenance
  - 20k miles annually per vehicle
  - $.75/mile growing at 4%
- Professional Services
  - Implementation: $360k (2 years)
  - Legal/Acct: $30k (Yr1)/$5k (Yr2+)
- Other Opex
  - ROW Fees: $0/pole/year
  - Vendor maintenance of $55k/year for OSS/BSS and FTTP electronics
- Marketing
  - Years 2 & 3: $200k annually
  - Year 4: $150k
  - Year 5+: 1.0% of revenues
- Billing
  - 80% of residential and commercial customers on paperless billing (Yr1) growing to 100% (Yr15)
  - Paper bill cost of $.75/each/month and growing 3% annually



LAST MILE CAPITAL BUDGETING PROCESS

- Primary cost drivers for last mile projects
  - Outside plant characteristics – overhead vs. underground
  - Cost to construct underground facilities
  - Cost to construct overhead facilities
  - "Make Ready" cost to attach to existing overhead infrastructure – Puget Sound Energy (PSE) poles
- Key outside plant assumptions
  - City would place 60% of the last network on PSE poles
  - The remaining 40% of the network would be placed in new underground conduit systems
- PSE pole make ready assumptions
  - 5% of PSE poles will need to be replaced with taller poles at the City's expense - $15,000 each
  - 30% of PSE poles will need to have some sort of rearrangement at the City's expense - $1,000 each
  - City will spend $1,000 per pole as part of the application / permitting process
- Outside plant construction cost assumptions
  - Composite unit cost assumptions used to reflect total cost per foot (including materials and labor)
  - Aerial construction in telecom zone - $18 per foot
  - Underground construction in City right of way - $80 per foot

LAST MILE: CAPITAL

- Network Construction
  - OSP Construction: $2,354 composite cost per passing
  - Subsequent plant extensions: $ 3,500/passing
  - FTTP Optical Line Terminals: $150/passing
  - Backbone/Feeder cost: $203/passing
  - Year 10 Network electronics upgrade: $75/premise passed
  - Make ready cost: $2,050 per pole
- Facility Capital Costs
  - Office space remodeling: $500k
  - Operations center building: $1.0M
- Back Office Systems (OSS/BSS)
  - OSS/BSS: $195k
  - Fiber Management & Network Management: Completed
- Backup Power
  - Generator w/ UPS: $375k
- Fixed Equipment
  - Core data switch: $500k
  - Internet systems back office: $250k
  - Splice Trailer/Field Tech Equipment/Tools: $270k

LAST MILE: CAPITAL (CONT.)

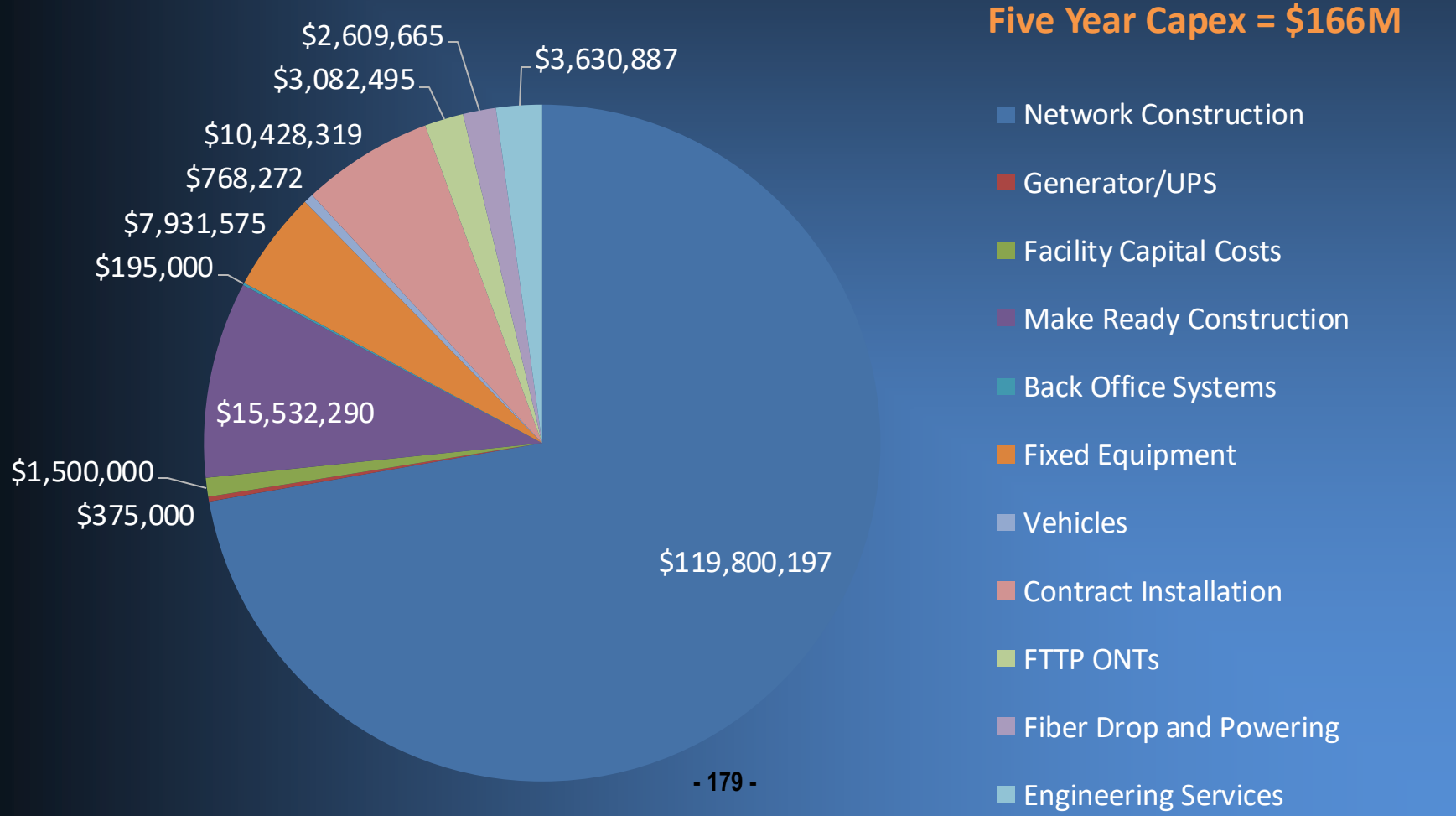
- Vehicles
  - Service Vans Per Install Technician: 1.0
  - Heavy Service Trucks Per Maintenance Technician: 0.5
  - Service vans: 8 at $45k each
  - Heavy Service Trucks (non-insulated): 1 at $120k each
  - Install Rigs: 1 per Install or Service Technician at $25k each
  - Vehicles replaced at 6 year intervals
- Contract Labor
  - Pre-Installs: Insourced
  - Premise Installs: Insourced
- Optical Network Terminals (ONTs)
  - Without WiFi: $130
  - With WiFi: $234
  - Multi-Gig: $310
  - Year 7 ONT upgrade: $670k ($40/ea.)
- Fiber Drop & Powering
  - Fiber drop and connectors: $125 each
  - Power cord and UPS: $50 each

LAST MILE: CAPITAL (CONT.)

- Engineering and Integration
  - Walk out & strand mapping: $2,500 per mile
  - FTTP design: $3,000 per mile
  - Make Ready Engineering: $3,000 per mile
  - Construction management services: $10,000 per mile
  - As-built drawings: $250 per mile
  - Backbone/Feeder design: $500,000

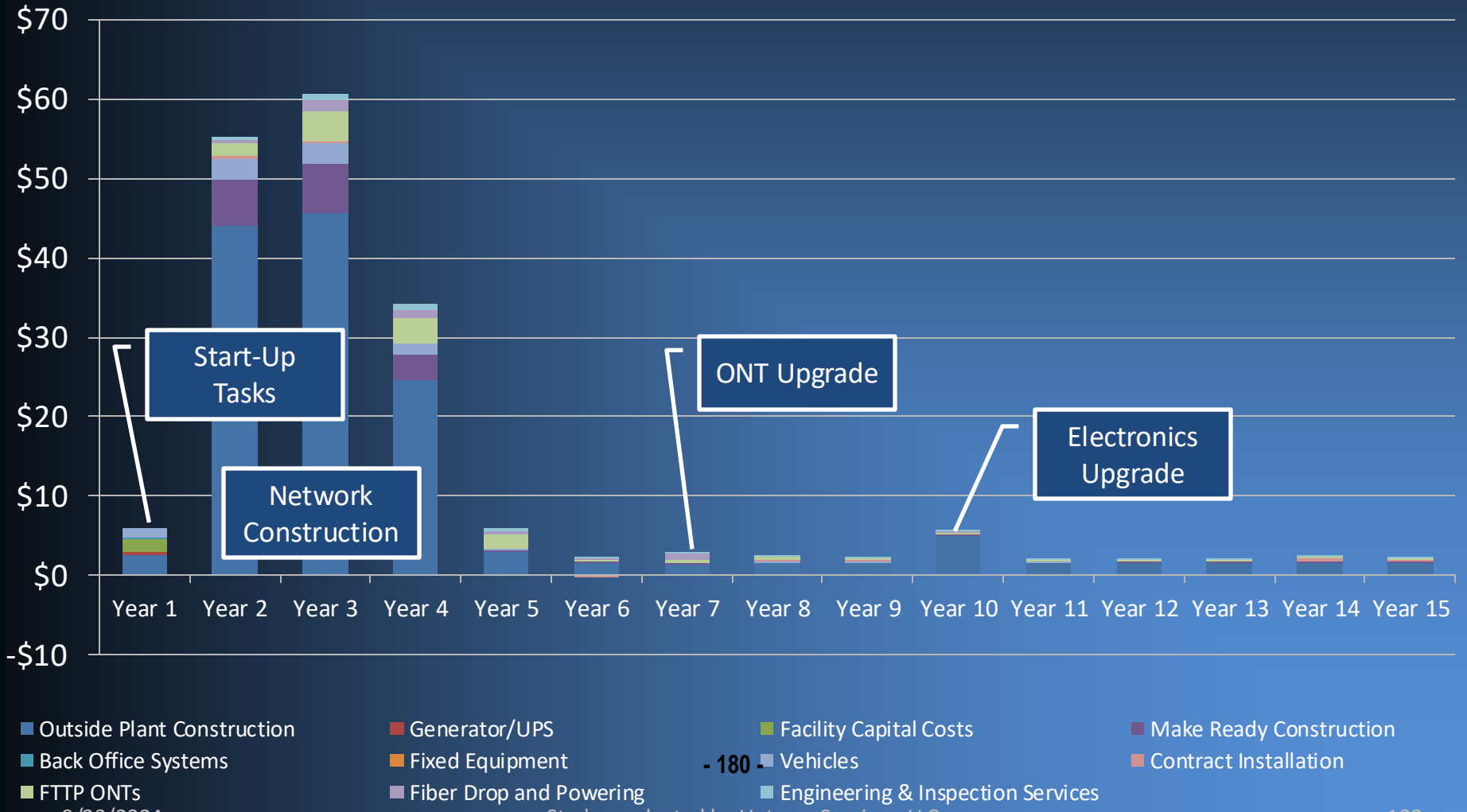
LAST MILE: CAPEX BY TYPE: YEARS 1-5

Nearly three-fourths of the 5 year capex requirement is due to outside plant construction, primarily composed of the labor cost to install aerial and underground conduit and fiber. This capex requirement is the primary driver of the long-term bond amount required to fund FTTP



LAST MILE: CAPEX BY YEAR ($M)

Capex spending is front-end loaded during the start-up and construction phases of the project, but the pro forma also includes incremental capex for electronics upgrades in Years 7 and 10



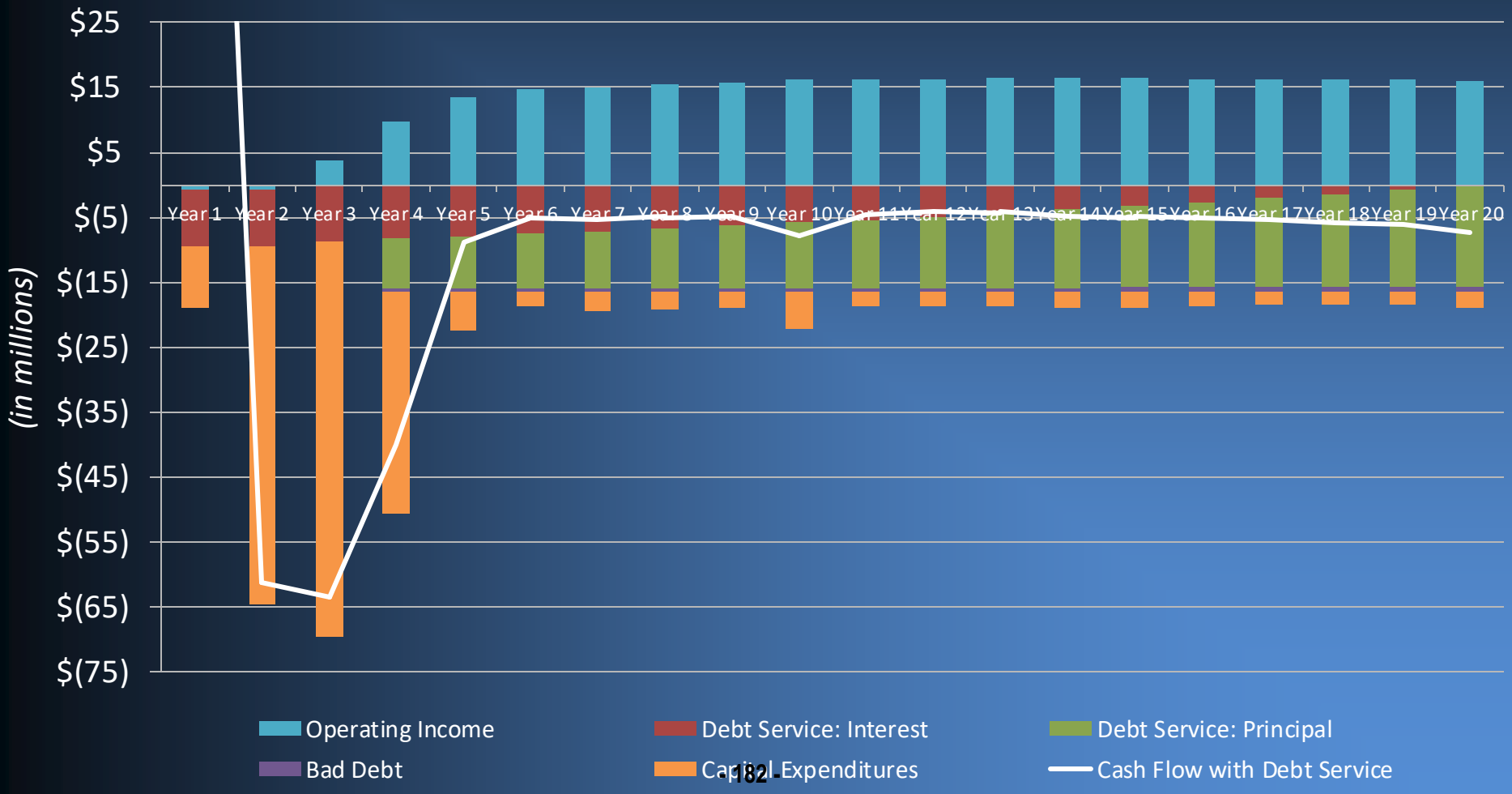
LAST MILE: CASH FLOW BEFORE DEBT SERVICE

We forecast that under the Last Mile scenario, operating cash flow would go positive in Year 3 and remain positive over the life of the project. This view excludes debt service costs…



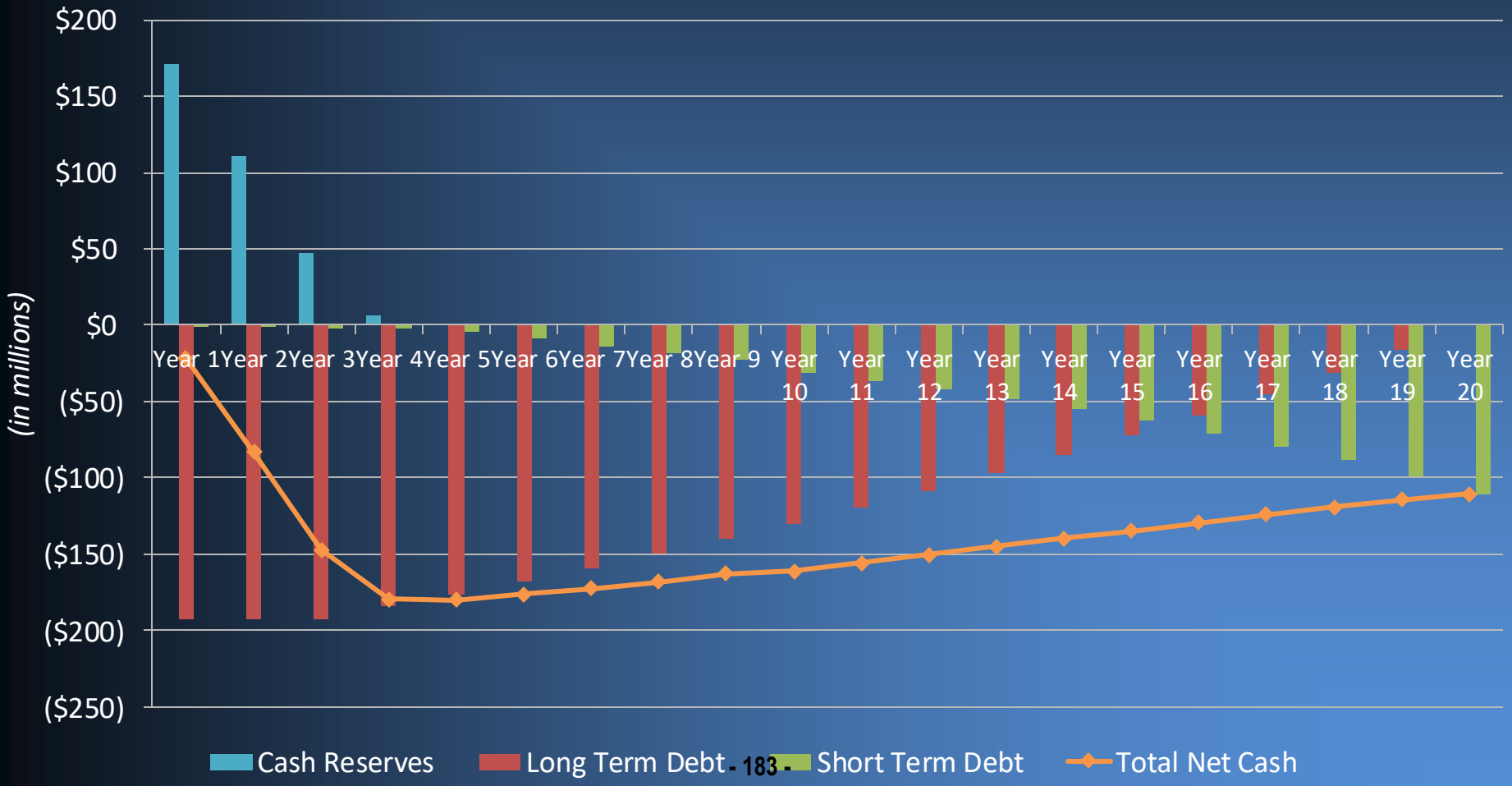
LAST MILE: CASH FLOW AFTER DEBT SERVICE

Although operating income goes positive in Year 3, cash flow including debt service never goes positive during the 20 year forecast…



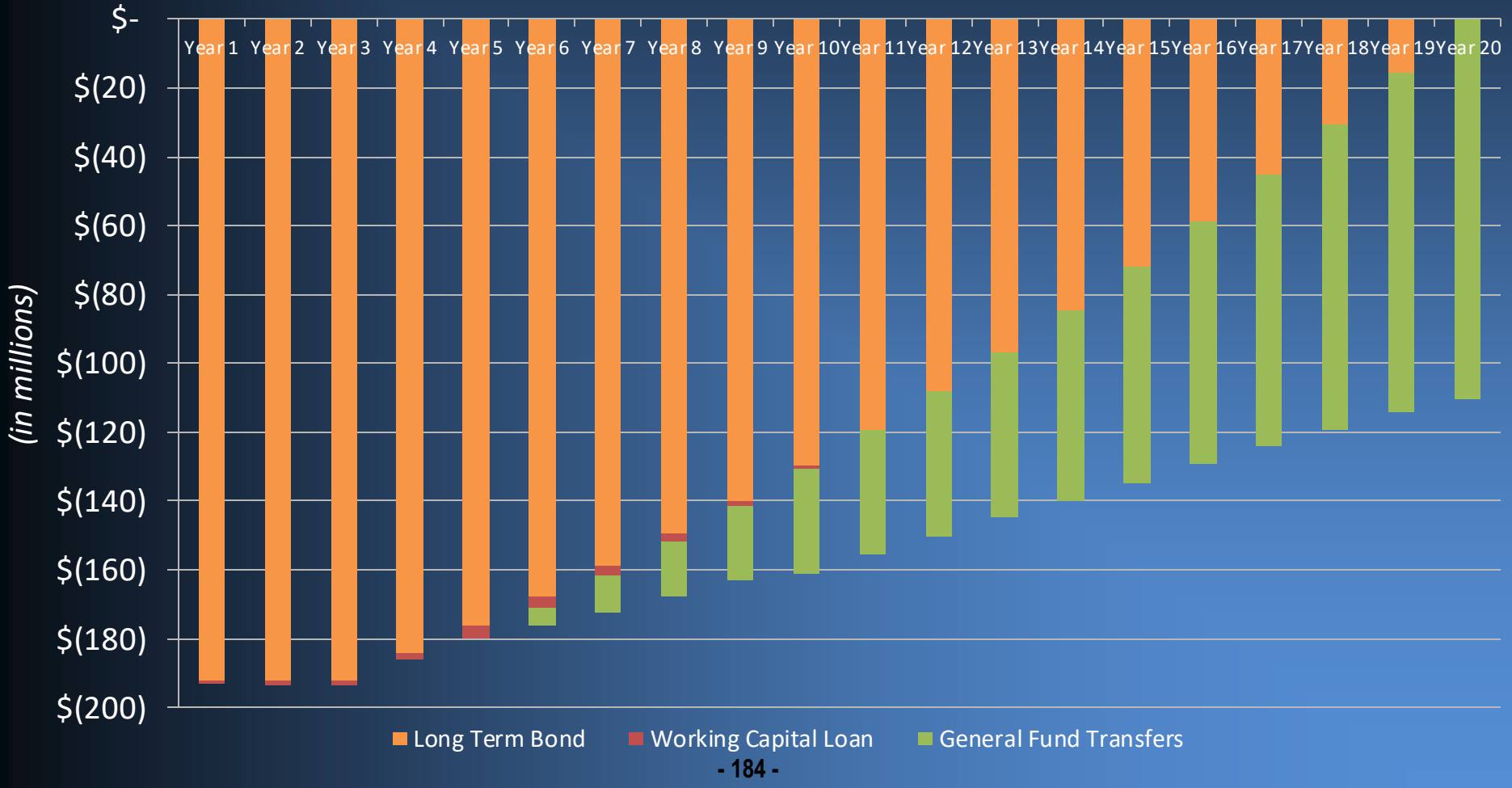
LAST MILE: NET CASH ($M)

The Last Mile scenario is projected to have a negative $110M net cash position at Year 20…



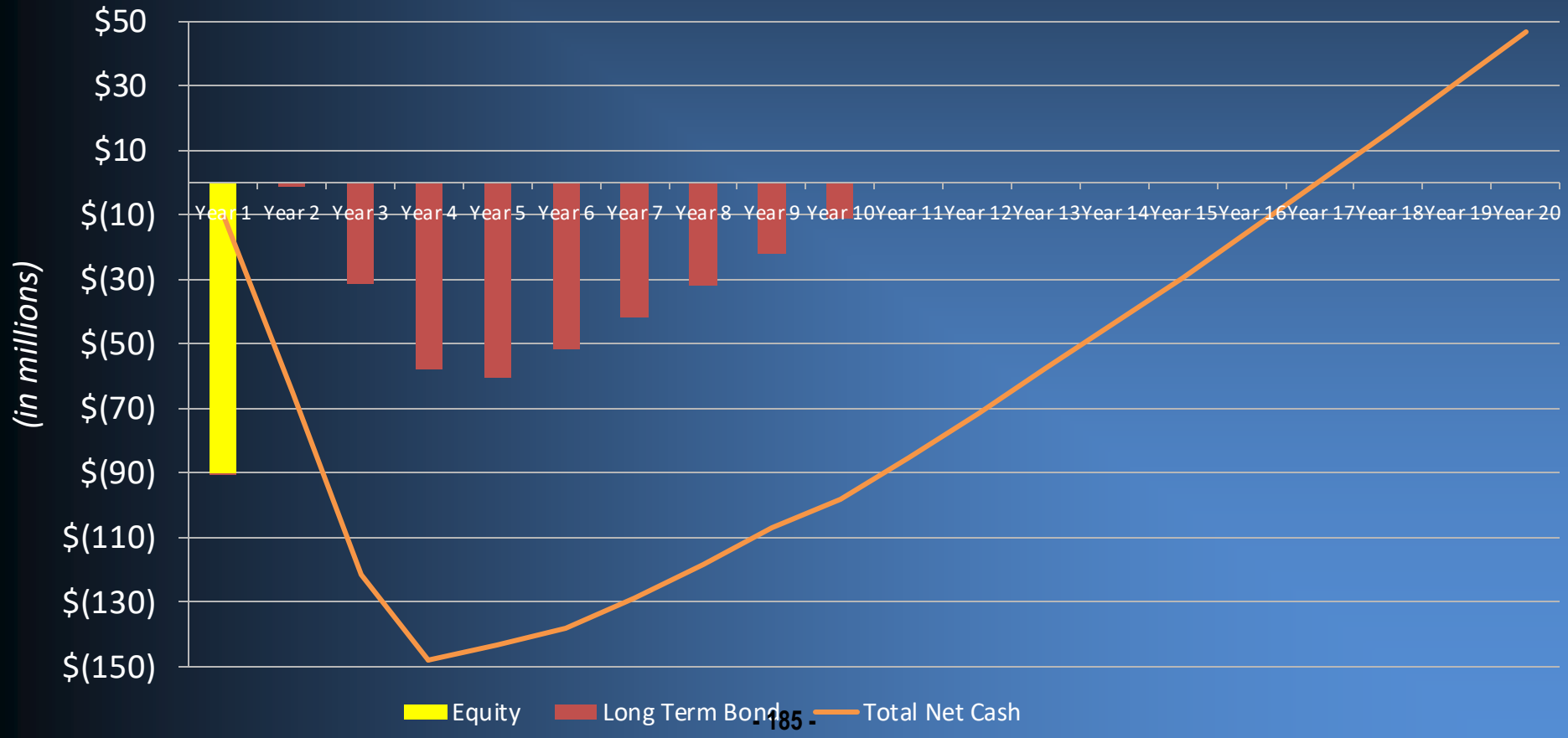
LAST MILE: FUNDING SOURCES

With insufficient operating cash flow, the fiber enterprise would need to continue borrowing funds since it would not be financially self sufficient...



LAST MILE: EQUITY FUNDING OUTCOME

For the Last Mile scenario to achieve financial self-sufficiency, an equity investment of $90M would be required in addition to a $57M 10-year bond. The equity investment would be sunk and not incur interest payments. At Year 20, the enterprise would have a $50M net position against the $90M equity stake...



FINANCIAL ANALYSIS SUMMARY

1. Local market construction costs within the proposed service area are expensive and require significant capital investment
   - OSP Construction: $2,354 composite cost per passing
   - Make ready cost: $2,050 per pole
   - Walk out & strand mapping: $2,500 per mile
   - FTTP design: $3,000 per mile
   - Make Ready Engineering: $3,000 per mile

2. We note that federal infrastructure grant dollars, while significant and timely, would not be available within city limits due to a lack of eligibility based on incumbent service offerings Traditional financing using long term debt, working capital loans, and equity would be required.

3. Across the three scenarios studied, we conclude the following regarding the financial feasibility of each:
   - Dark Fiber Leasing: Not financially feasible as operating cash flow is not positive and would require ongoing budget transfers to remain in operation
   - Leased Access: Not financially feasible as operating cash flow is not positive and would require ongoing budget transfers to remain in operation
   - Last Mile: While operating income is positive, the $200M bond debt service costs preclude financial feasibility. To sufficiently alleviate debt service costs, a $90M upfront equity investment would be required in addition to a $57M bond.

Task 7: Fiber Construction, Documentation, and Standards

FIBER STANDARDS DOCUMENTATION

- Objective

  Create guidelines for new infrastructure construction, standards for as-built documentation and testing and acceptance standards for "carrier class" infrastructure

- Uptown deliverable
  - Documentation suitable to use in the scope of future RFPs and contracting
  - Drawn from multiple recent Uptown last mile and middle mile construction RFPs / Bids
  - Provided under separate cover in MS Word format

NEXT STEPS FOR FIBER TESTING AND INFRASTRUCTURE UPGRADES

- Fiber Testing
  - Test all terminated fiber strands owned by the City
  - $144,000 budget estimate
  - Three to six months to complete

- Infrastructure Upgrades – Hand Holes and Conduits
  - Upgrade hand hole locations to fiber standards
  - Prioritize fiber routes based on test results
  - 845 potential upgrade locations
  - $8M budget estimate
  - Two to four years to complete

- Infrastructure Upgrades – Fiber Augmentation
  - Place new fiber cable in Southwest Route
  - Place 96-144 fiber cable depending on capacity of the conduit
  - $127,500 budget estimate
  - One to three months to complete

City Council Agenda Bill

24251

Bill Number

Subject: **Old Town Base Camp Presentation by Lighthouse Mission Ministries**

Summary Statement: Lighthouse Mission Ministries staff will provide an in-depth overview of the new enhanced shelter services located in Old Town. The Enhanced Shelter Model is designed to address the complex needs of individuals experiencing homelessness. The new facility will offer a comprehensive array of services, providing support to individuals at various stages of life and recovery. Up to 300 guests may be served per night with allowance for additional capacity during severe weather events. We thank Lighthouse Mission Ministries and supporters who contributed to making it a reality for community members in need.

Previous Council Action: **Development Agreement with Old Town Village, LLC #C2301065**

Fiscal Impact: **$50,000 per year to support neighborhood cleaning services. Additionally, the Astor Street improvements adjacent to the new shelter will be completed by the City as part of the Old Town Streetscape Improvement Project**

Funding Source: **General Fund**

Attachments:
1. STAFF MEMO
2. PRESENTATION SLIDES

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Information Only	09/30/2024	Information/Discussion	Tara Sundin, Community and Economic Development Manager	30 minutes

Recommended Motion:

Council Committee:
Community and Economic Development Committee

Agenda Bill Contact:
Tara Sundin, Planning and Community Development, tsundin@cob.org

Council Action:

Reviewed By	Department	Date
Blake G. Lyon	Planning & Community Development	09/19/2024
Amy B. Kraham	Legal	09/19/2024
Kimberley J. Lund	Executive	09/24/2024

City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL
FROM: TARA SUNDIN, COMMUNITY & ECONOMIC DEVELOMENT MANAGER
CC: MAYOR KIM LUND
SUBJECT: LIGHTHOUSE MISSION MINISTRIES (LMM) BASE CAMP IN OLD TOWN
DATE: SEPTEMBER 30, 2024

Due to the COVID outbreak, the City of Bellingham, Whatcom County and LMM partnered to provide a safe alternative to the Old Town Drop-in Center. In June of 2020, all three parties agreed to share the cost to lease, renovate and operate a 200-bed shelter at 1530 Cornwall Avenue, referred to as Base Camp. The intention was that the shelter services would be relocated to Old Town after the completion of the new Lighthouse Mission Ministries shelter located on the 900 block of W Holly Street.

The original term was for a period of three years with an opportunity to renew for one additional year if certain milestones were achieved by LMM. Those milestones were achieved, and the fourth year was granted to allow for the completion of a replacement facility, with construction completion just days away.

Lighthouse Mission Ministries staff will provide an in-depth overview of the new enhanced shelter services. The Enhanced Shelter Model is designed to address the complex needs of individuals experiencing homelessness. The new facility will offer a comprehensive array of services, providing support to individuals at various stages of life and recovery. This model emphasizes a holistic approach – integrating spiritual support, housing, healthcare, and life skills to foster sustainable recovery and reintegration into society.

Up to 300 guests may be served per night with allowance for additional during severe weather events. LMM plans to help guests relocate from Cornwall Avenue to Old Town in October.

We congratulate and thank Lighthouse Mission Ministries and all the grantors, donors, volunteers and supporters that contributed to making this grand vision a reality for our community members in need of shelter and services.

LIGHTHOUSE
MISSION MINISTRIES

ENHANCED SHELTER MODEL



The Enhanced Shelter Model

The **Enhanced Shelter Model** is designed to address the complex needs of individuals experiencing homelessness.

The new facility will offer a comprehensive array of services, providing support to individuals at various stages of life and recovery.

This model emphasizes a holistic approach – integrating spiritual support, housing, healthcare, and life skills to foster sustainable recovery and reintegration into society.

There are **Four Key Components** to this model.

4 Key Components

of the Enhanced Shelter Model

1. **Multiple Access Points**
2. **Multi-Layered Programming**
3. **Holistic Services**
4. **Community Integration**

IMPLEMENTATION

Facility Design and Infrastructure

- **Safe and Welcoming Environment:** Trauma-informed design principles to create spaces that promote healing and safety.
- **Flexible Spaces:** Multipurpose rooms that can adapt to various programming needs and community events.
- **Sustainable Building Practices**: Eco-friendly materials and energy-efficient systems to reduce environmental impact.



IMPLEMENTATION

Monitoring and Evaluation

- **Data-Driven Decision Making**: Regular assessments of program outcomes to identify areas for improvement.
- **Client Feedback:** Incorporating input from residents to ensure services meet their needs and preferences.
- **Continuous Improvement**: Adapting programs based on evaluation results and emerging best practices.



ENTRY TO SERVICES

WALK-IN & INTAKE

Our Basecamp Help Desk is staffed 24/7. Every individual will have access to our Intake Coordinator. Together, they will determine the right program and next steps.

OUTREACH

Through outreach we are able to make direct referrals into the low-barrier emergency shelter. From here, residents can choose to join a higher tier of programming.

REFERRALS

We work with local partners who can refer clients directly to our services. Our staff can also provide direct referrals to our Recovery Programs



Main Entry


Help Desk



Shower Hall



Day Room



Community Deck Space

LOW-BARRIER ACCOMMODATIONS



Walk-In Emergency Shelter

Low-Barrier Emergency Beds

Severe Weather Emergency Beds

Access to Case Management & Community Referrals

PROGRESSIVE ENGAGEMENT

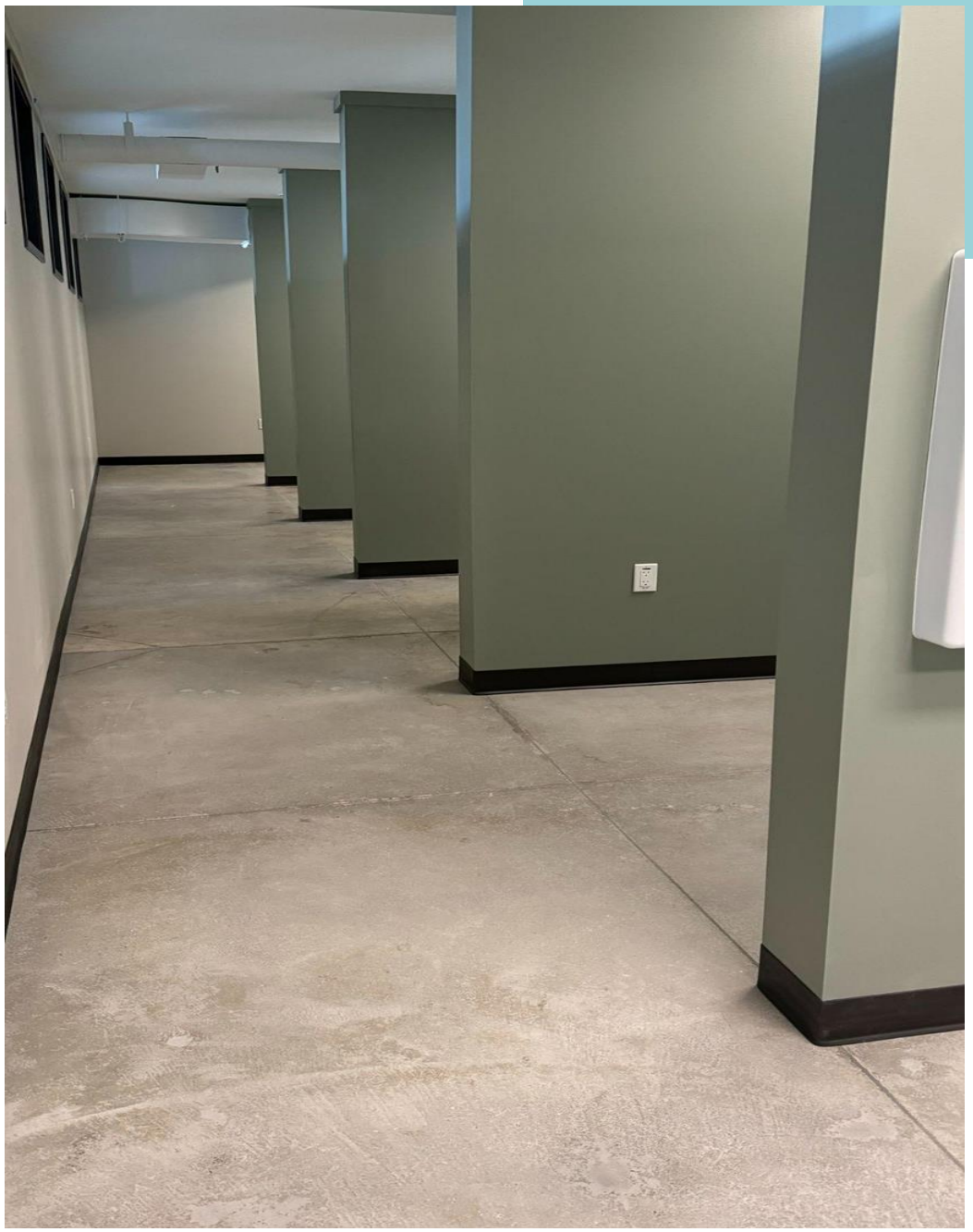


Next Step Programs

For individuals seeking to escape the influence of drugs and alcohol, working toward education & employment goals, or those waiting on stable housing options.

The space is divided into distinct areas, each tailored to different program needs, ensuring personalized support and privacy for all residents.



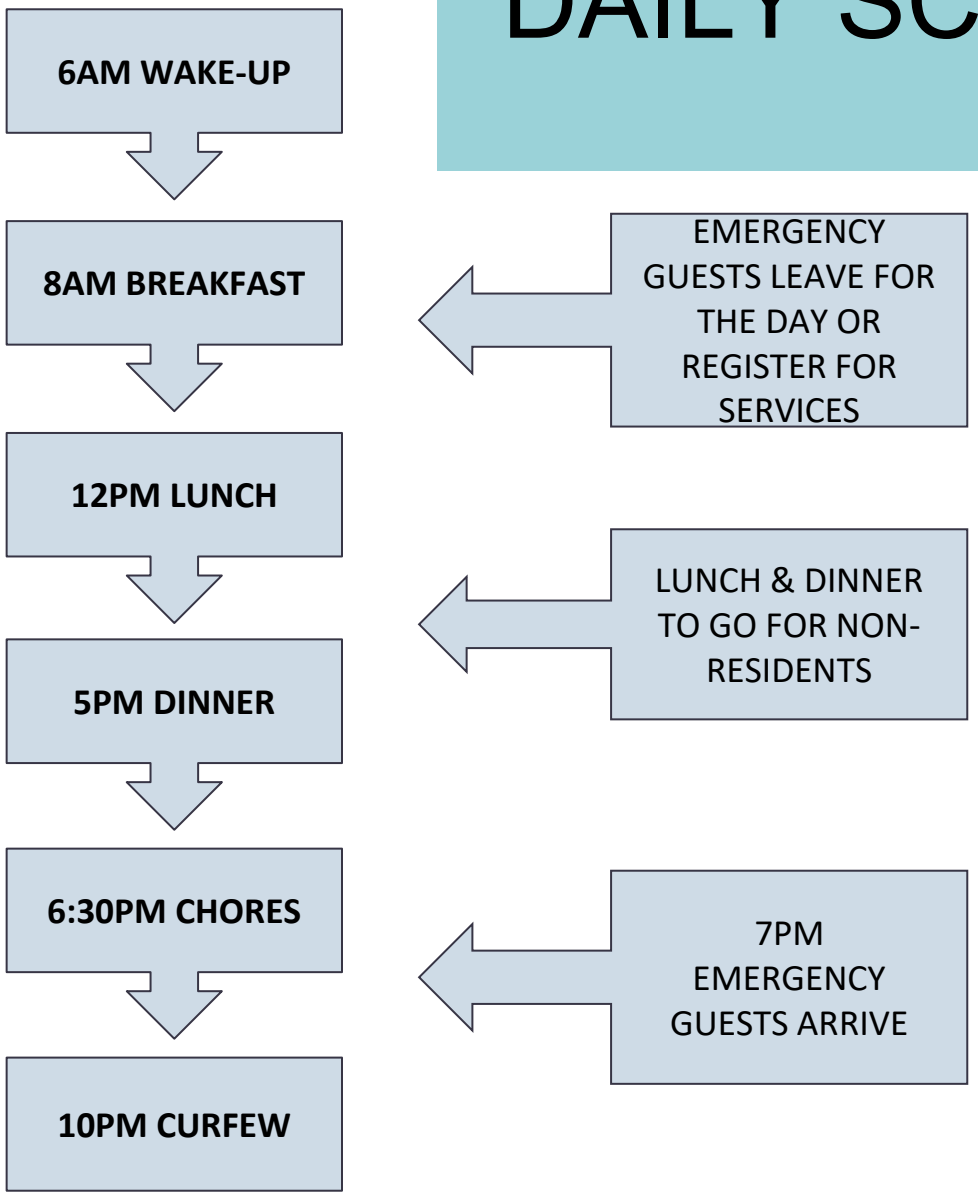


FLEXIBLE DORM SPACE

5 open entry rooms located in both the Men's and Women's Dorms that offer a higher level of privacy.

Individuals are screened into these rooms by the Intake Coordinator.

DAILY SCHEDULE & SERVICES



Basecamp will provide a wide range of essential services to support our community. These include **mail services, shower & laundry facilities and nutritious meals,** ensuring that basic needs are met.

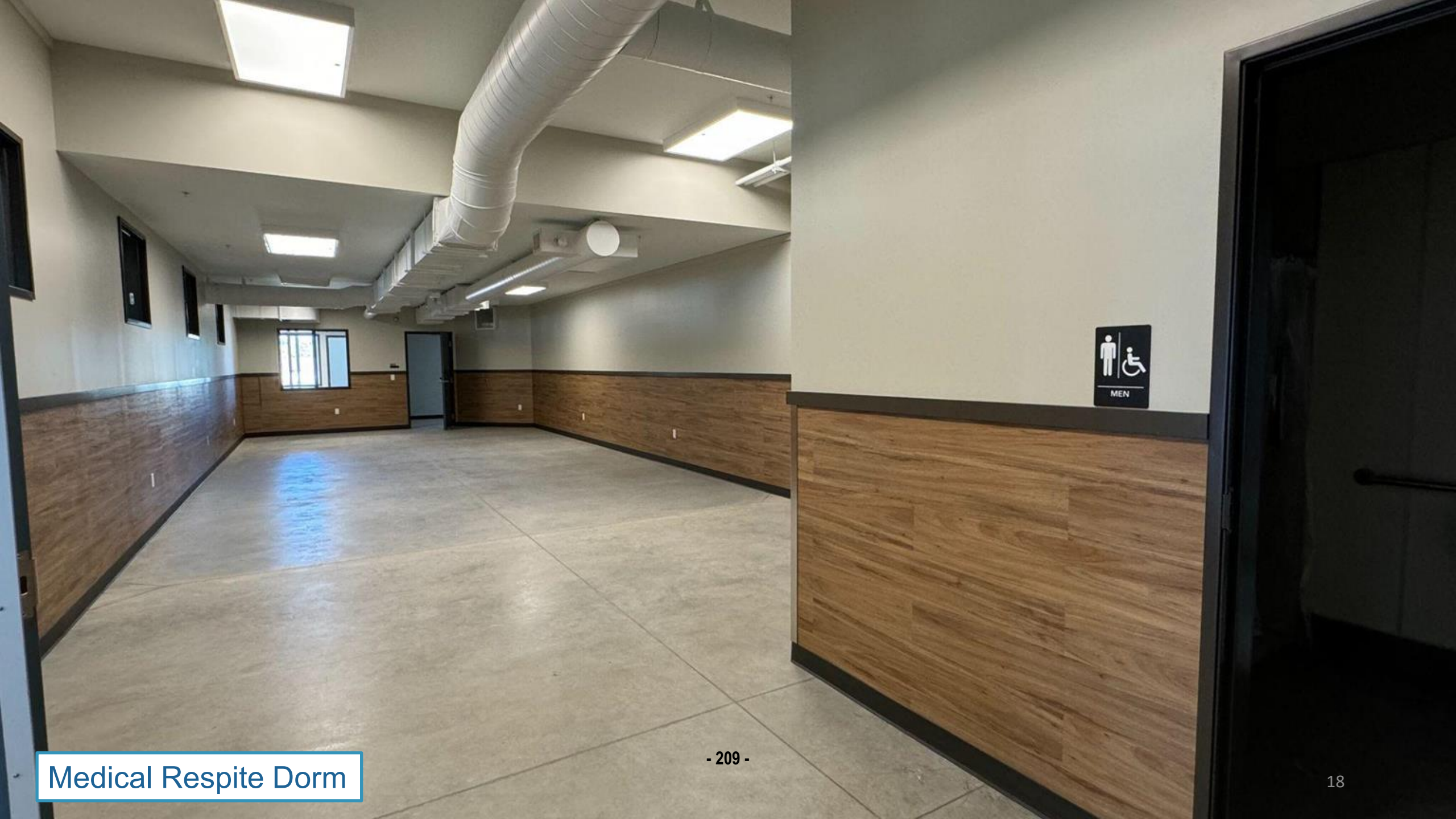
Additionally, the center will offer opportunities for personal growth through **life skills groups and classes.**

Services and classes are available to all **current residents or those wishing to join programming.**

Medical Respite Dorm

The medically fragile dorm offers shelter and assistance for individuals with diverse medical needs, including:

- Short-term respite
- Supportive shelter for individuals with chronic health conditions
- End-of-life care in partnership with local health providers



Medical Respite Dorm

MEDICAL RESPITE

Services Provided

Clinic Access

Case management

Collaboration with home health providers

Meals

Medication storage

Bible Study and Devotions Offered

A comfortable and supportive atmosphere to heal, rest and recover



BEHAVIORAL HEALTH

The Behavioral Health dorm aims to support men and women in overcoming symptoms that hinder their daily lives, fostering success in the community.





Behavioral Health

BEHAVIORAL HEALTH

Services Provided:

- Referrals to mental health professionals
- Case management
- Medication storage and tracking
- Meals
- A comfortable and supportive place to stabilize
- Community meetings
- Bible studies and devotionals offered



FAMILY

The purpose of the Family Dorm is to provide a private space for families experiencing homelessness. Programming includes a variety of services aimed at supporting the family on their journey to independence and healing.

Services Provided:

- Private restrooms, kitchenette and playroom
- Case management
- Recovery & community Meetings
- Bible studies and devotionals offered
- Childcare resources
- Family outings
- Referrals to other community providers
- A liaison to children's schools



Family Dorms and Living Room



Family Dorms Kitchenette

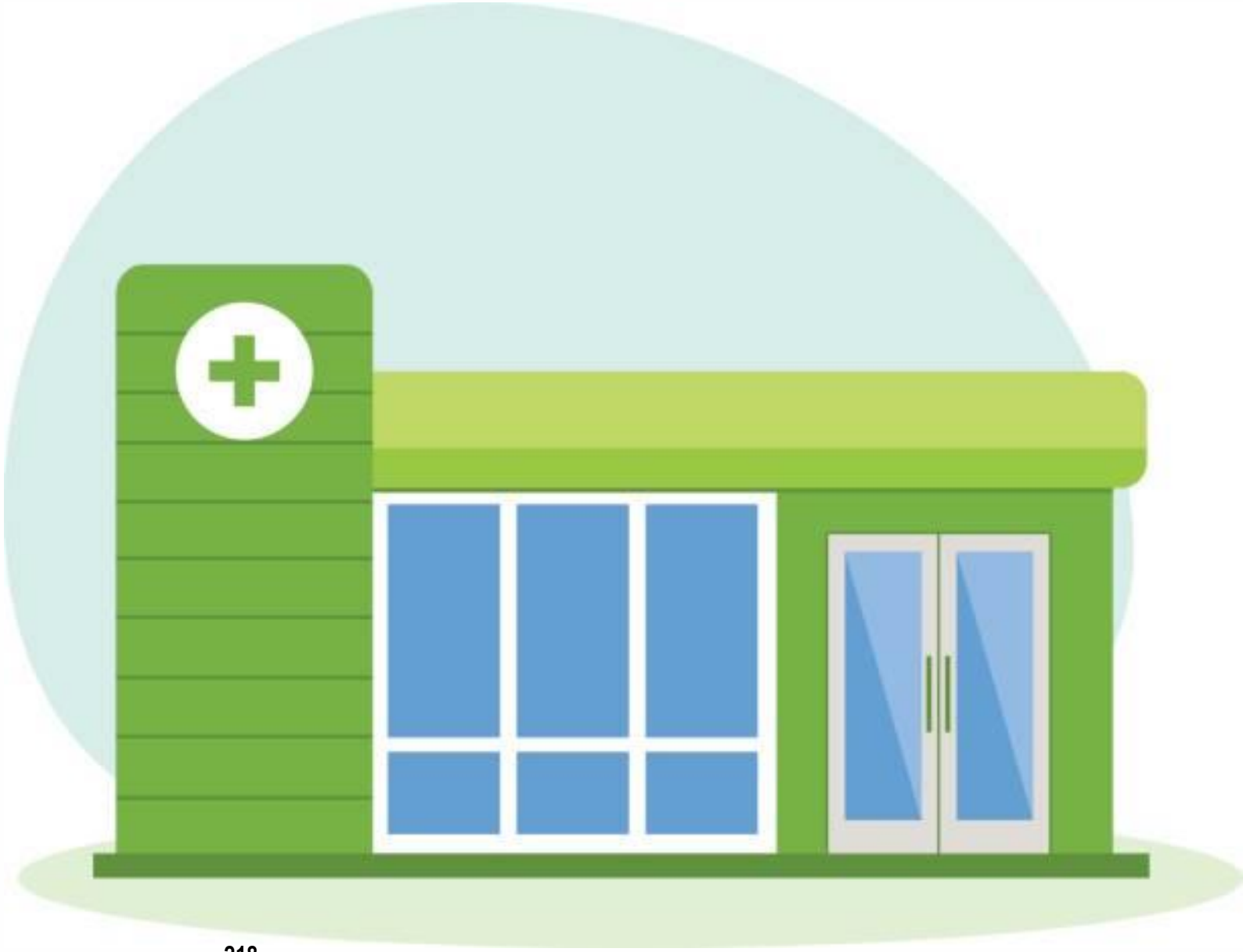


Large Family Room

MEDICAL CLINIC

We are proud to offer a shared clinic space for local providers.

Complete with private waiting room and two exam rooms, we offer access to free clinic services and referrals.



ASCENT & AGAPE HOME

Our faith-based residential recovery program, spanning 12-24 months, provides a nurturing environment with comprehensive supportive services to empower individuals on their journey to lasting transformation and healing.

Spiritual Growth and Sobriety
- Daily activities that promote spiritual and physical wellness

Holistic Healing and Life Skills Development
- Counseling and therapy services
- Job training, education, and life skills workshops

Community and Accountability
- Group sessions and peer support
- Building a supportive, faith-based community



Any Questions?

City Council Agenda Bill

24252

Bill Number

Subject: **Presentation of the 2025 Proposed Budget**

Summary Statement: The Mayor and staff will present an overview of the 2025 proposed Budget.

Previous Council Action: **Adoption of Ordinance 2024-07-2021 repealing the Biennial Budget; Presentation of 2025 Budget Priorities on May 20, 2024**

Fiscal Impact: **$543,057,379**

Funding Source: **Citywide Expenditures**

Attachments: 1. MAYOR'S BUDGET MESSAGE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Information Only	09/30/2024	Information/Discussion	Mayor Kim Lund	30 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Forrest Longman, 360-778-8005

Council Action:

Reviewed By	Department	Date
Forrest W. Longman	Executive	09/24/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/25/2024

City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: **BELLINGHAM CITY COUNCIL**

FROM: MAYOR KIM LUND

CC: DEPARTMENT HEADS

SUBJECT: 2025 PROPOSED BUDGET

DATE: SEPTEMBER 30, 2025

The annual budget process is now well underway and with this memo, I present to you my proposed 2025 budget. It is a more responsible budget than the previously adopted biennial budget -- one that seeks to arrest deficit spending and maintain services while we develop strategies to put the City in a stronger financial position in the coming years. It reflects hard decisions, made in collaboration with the City's leadership team, and is reflective of our commitment to a one-City approach and our newly adopted financial policies.

The City's budget should reflect our community's values. My proposed budget expresses my vision for our City being among the best cities in the nation, with excellent government in service to our community and strong fiscal stewardship of public dollars. A few strategic investments included in my proposed budget are highlighted below.

Public safety proposals

- Adding two new officers to support the return of our Police specialty units, including the downtown bike patrol.
- Adding one new Fire inspector to increase our ability to proactively inspect and identify fire risks and reduce the time to complete the construction permitting process.
- Committing to investing in a new public safety strategic plan to identify needs for our current and future level of service goals and an exploration of long-term funding options to support these needs.
- Fully funding our ongoing investments to the Justice Project Implementation Plan goals that support alternative response and justice programs, including ART, GRACE, HOT, WREC, and other existing interventions. In addition, earlier this year, we added a Strategic Initiatives Manager to support the Justice Project Implementation Plan and to better coordinate our health and human services responses.
- Adding a prosecutor position to support the new therapeutic Community Court currently under development in Bellingham Municipal Court.
- Making a $1 million contribution to the Whatcom County 23-hour Crisis Relief Center using the City's opioid settlement funds.

Internal services, systems and people

I am committed to supporting the internal services, systems and importantly, the people that allow the City to effectively and efficiently deliver outstanding services to the public. Yet -- at this time of significant revenue shortfalls -- we have a legacy of debt now coming due in these areas, including critical technology needs, compounding impacts from deferred investments in our facilities, and aging infrastructure throughout the City. My administration is committed to the hard work that will be required to address these ongoing challenges, beginning with this budget. My proposed budget includes:

- Maintaining high levels of funding for our facilities, fleet and information technology services.
- Directing significant resources to fund the critical replacement of our essential, but obsolete, enterprise-wide human resources technology system. Implementing a modern system will be a powerful tool to streamline processes, reduce organizational silos, enhance engagement across the organization, and increase access to meaningful data to guide decision making.
- Adding a security position to support and enhance employee and public safety at City Hall and the Central Library.
- Creating much-needed capacity in the Legal Department by shifting public records disclosure compliance to the City Clerk and adding a utility-funded civil attorney.
- Bolstering the General Fund by reducing the percentage of General Fund revenues currently directed to the Street Fund from 37 percent to 32 percent.

Non-General Fund resources directed to priorities

While the General Fund is in a challenging financial situation, other City resources retain the capacity for us to make meaningful investments in priorities, including:

- Making significant investments in housing. Our voter-approved Affordable Housing Levy and Affordable Housing Sales Tax allows us to invest millions annually towards housing security across the continuum of need.
- Moving our climate work forward by seeking and accepting grants to support this important work in the face of limited resources.
- Investing and stewarding our beloved parks and trails with voter-approved Greenways Levy funds.
- Investing our voter-approved Transportation Fund resources in roads, bikes and pedestrian infrastructure.
- Applying state and federal grants along with Real Estate Excise Tax to enable further investments in major infrastructure.
- Cleaning up the legacy of pollution on our industrial waterfront -- supporting dramatic reshaping and increasing access to our prime waterfront -- with funding from state grants and Solid Waste Tax revenues. My budget proposes an increase in solid waste

tax from 11.5 percent to 17.25 percent to support this critical work and other solid waste funding needs.

My administration began developing this budget with a multi-million-dollar ongoing General Fund deficit. Flattening and potentially declining revenues have exacerbated this gap. To produce a more balanced budget with minimal deficits, this proposed budget leverages creative uses of existing resources and employs targeted reductions to provide short-term budget relief, while allowing for strategic investments in priority programs and minimally impacting the delivery of services.

However, it is important to emphasize that this budget is but a temporary bridge to a more financially stable future. Many of the revenue strategies it employs are not long-term solutions. The financial gap that exists cannot be filled by economic growth alone; there remains a disconnect between the City's level of service and its available resources. Going forward, my administration, the City Council and the community will need to work together to establish new, sustainable and flexible revenues or make difficult decisions to reduce services.

My vision is that we endeavor to be an excellent government creating enduring public good in service to the community we love. Right now, excellence in government means being responsible stewards of constrained public dollars, while making progress on key community priorities and much-needed investments in the people that work here. City Council members have a crucial role to play and I invite you all to be active partners in this work.

I look forward to discussing this budget with you in greater detail over the coming weeks and working together to establish a stable financial future for the City.

City Council Agenda Bill

24253

Bill Number

Subject: **An Ordinance of the City of Bellingham Relating to Landlord Tenant Relations, Adopting a New Chapter in Title 6 of the Bellingham Municipal Code Prohibiting Landlords from Charging Tenants Unfair or Excessive Fees in Residential Rental Agreements and Leases**

Summary Statement: An increasing concern in our community and many others is the proliferation of various fees associated with residential dwelling unit applications, lot rental rates, leases and/or purchase agreements. Examples of such fees – also referred to as "junk fees" – include move-in fees, rental application fees, pet fees, and various administrative fees. Some exceed the actual cost of a given service, are not linked to an expense, are misleading or not disclosed in advance. Federal, state, and local governments are taking actions .to support consumer interests regarding junk fees. The proposed ordinance seeks to address junk fees in Bellingham, including defining fees that qualify as "unfair or excessive," establishing fines and other civil penalties, and prohibiting retaliation against those attempting to exercise their rights.

Previous Council Action: **On August 12, 2024, Council directed the Legislative Policy Analyst and City Attorney's Office to research legislation related to prohibiting excessive fees at residential rentals and mobile home parks and review Council Member Cotton's draft ordinances**

Fiscal Impact: **To be determined**

Funding Source: **General Fund**

Attachments:
1. MEMO
2. ORDINANCE
3. PRESENTATION
4. WRITTEN PUBLIC COMMENT RECEIVED BY COUNCIL

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Direction Requested	09/30/2024	Provide Direction	Council Member Jace Cotton, Iris Nott, Legislative Policy Analyst, and James Erb, Deputy City Attorney	30 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Iris Nott, 360-778-8204

Council Action:

Reviewed By	Department	Date
Alan A. Marriner	Legal	09/24/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/25/2024

Unfair and Excessive Rental Fees

Iris Nott, Legislative Policy Analyst

Background

During the Bellingham City Council Meeting on August 12, 2024, Councilmember Cotton announced his support to prohibit unfair and excessive fees related to residential rentals and mobile home parks. Councilmember Cotton encouraged individuals in the community to reach out and share any stories with him and Council. The council requested that the Legislative Policy Analyst and the legal department work on legislation and research related to prohibiting excessive fees at residential rentals and mobile home parks.

Introduction

Unfair and excessive fees, also commonly referred to as “junk fees” are pervasive. These fees can be excessive and above the actual cost of a given service, unnecessary and not linked to an actual expense, and deceptive or misleading. Further, junk fees are often hidden, prohibiting comparison shopping and surprising consumers late in the purchase process or even after purchase, or in the case of tenants, after committing to a rental and signing a lease. Junk fees permeate many markets and industries. Consumers encounter junk fees for special events and airline tickets, banking services and credit cards, lodging and accommodations; internet, cable and cellphone services; and for rental housing. The last few years have brought increased awareness of the problem of junk fees and the harms they cause consumers and tenants and federal, state, and local governments have started to crack down on junk fees. [1]

Junk fees for rentals are tacked on to the base rent for things that don’t have a cost, are the landlord’s responsibility to provide, are nonoptional fees that tenants don’t want, were previously expected to be included in rent and are now separate fees in excess of base rent, and fees that are difficult to opt-out of or appear to tenants as nonoptional. The National Consumer Law Center published a report in 2023 which highlighted the breadth of junk fees renters in American experience.[2] Junk fees in rental housing can be broken into one-time fees and recurring fees.

One-time or one-off fees include excessive application fees, administrative fees, and lease takeover fees, that are charged once during the lease. One-time fees also include fees that a tenant may encounter from a specific incidence but are not recurring such as notice fees, excessive late fees, or lease violation fees. Recurring fees occur on a regular schedule, usually monthly, and include things like valet trash fees, pest control fees, convenience fees for paying rent online, pet rent, mail sorting fees, fees to report rental payments to credit bureaus, benefit package fees, nonoptional cable, phone or internet fees; month-to-month fees, and inspection fees. These are examples of junk fees renters can encounter, and this list is not exhaustive.

Junk fees significantly harm consumers in America. The Council of Economic Advisors estimates that ten common junk fee categories cost consumers in America over $90 billion annually; apartment application fees alone cost consumers an estimated $276 million in 2023.[3] Junk fees for housing intensify the existing housing affordability crisis and hurt millions of

[1] (Deese, Mahoney, & Wu, 2022)
[2] (National Consumer Law Center, 2023)
[3] (Council of Economic Advisors, 2024)

renters in the U.S. as they pay unfair and excessive fees for housing on top of rent. In addition to costing renters more money, hidden fees, both in advertisements and leases, make it difficult for renters to compare housing options leading some to select units outside of their price range because the true cost of the rental was not clear. Some renters end up paying more than they planned and become cost-burdened by accident; if they had known the full cost of the unit upfront, they could have selected a more appropriate housing choice. By the time someone reviews a lease, they have typically paid an application fee and an administrative fee. If someone walks away at this point, they have already invested a significant amount of time and money. As more money goes to housing and housing related fees, households have less to spend on healthcare, food, and transportation, making them more vulnerable to any surprise bill or emergency. A renter who knows they can afford their unit, and knows they are not going to encounter surprise fees, is more likely to maintain stable housing.

Regulating Junk Fees

Junk fees are so prevalent that all levels of government from federal to local have started to rein in these fees. The Biden-Harris Administration has made junk fees a priority throughout the administration and has called on federal, state, and local governments to act, as well as the private sector. In January 2023, the White House published a white paper titled the *Blueprint for a Renters Bill of Rights*, which details five principles to promote rental housing fairness.[4] The second principle calls for clear and fair leases. This includes transparency, no hidden fees or junk fees, clear policies for deposits, and for leases to be written in accessible plain language, among others.

In March of 2023, Housing and Urban Development (HUD) Secretary Fudge published an open letter calling on “housing providers and state and local governments to adopt policies that promote fairness and transparency of fees faced by renters”.[5] Secretary Fudge further called for state and local governments to “limit and better disclose fees charged to renters in advance of and during tenancy”.

Federal agencies, state, and local governments have answered these calls to act. Private sector businesses have also acted. The FCC proposed a new rule in March 2024 to prevent apartment complexes from imposing bulk billing for broadband.[6] During a White House press conference on July 19, 2023, the Biden-Harris administration announced commitments from Apartments.com, Zillow and AffordableHousing.com to increase transparency by listing the costs of rentals upfront.[7] While these commitments show progress, a quick search of the same apartment complexes listed on both Apartments.com, Zillow, and the actual apartment complex’s website show different levels of completeness. This is an example of the challenges renters face when shopping for a new rental. For one apartment, the ad on Apartments.com listed an application fee of $45 and an administrative fee of $150, while the ad on Zillow listed “contact for details” in the section for application and administrative fees for the same apartment complex; meanwhile, the actual apartment website did not list any fees other than the base rent.

State Regulations

[4] (Domestic Policy Council and National Economic Council, 2023)
[5] (Secretary Marcia L. Fudge, 2023)
[6] (FCC Office of the Chairwoman, 2024)
[7] (The White House, 2023)

States have responded by enacting legislation to combat junk fees in rental housing. Some examples include Utah and Minnesota, which both enacted legislation requiring rental fee transparency. In 2021, Utah enacted House Bill 68, which requires fee disclosure to a potential renter before accepting a rental application or any fees.[8] It also prohibits any fees or charges not disclosed in rental agreement or in any amount greater than agreed to in rental agreement. Minnesota enacted House File 917 in 2023, which requires landlords to disclose all nonoptional fees in advertisements and the lease agreement, and list the total rent including all nonoptional fees on the first page of the lease.[9] California enacted Assembly Bill 604 in 2023, which requires transparent utility billing and limits associated fees for mobile home parks.[10]

There are multiple states which regulate various types of rental housing junk fees. A few examples are listed here. Colorado caps pet deposits and limits monthly pet rent; Massachusetts caps fees at the beginning of tenancy to first months' rent, last months' rent, security deposit equal to one month's rent, and key and lock fees; Vermont prohibits application fees. [11] Colorado, Connecticut, Minnesota, Nevada, New York, Utah, and Virginia all cap late fees.[12] These are just a few of the laws states have enacted to prohibit rental junk fees. The National Consumer Law Center (NCLC) recently published a report titled "*What the Heck, Dude!" How States Can Fight Rental Housing Junk Fees*, that explores state laws prohibiting rental junk fees in more detail.[13]

Washington State Regulations

Washington has some restrictions on rental junk fees in the landlord tenant act. The state limits tenant screening fees to the actual costs incurred (RCW 59.18.257). The state also requires rental agreements to clearly distinguish between deposits and nonrefundable fees and prohibits nonrefundable fees from being designated as a deposit (RCW 59.18.285). A landlord may only charge a holding deposit or fee up to 25% on the first months rent and must credit the fee or deposit to the first months rent or the security deposit if the tenant occupies the unit (RCW 59.18.253). A landlord must accept payment of deposits, nonrefundable fees and last month's rent over the course of three months when the fees and deposit total more than 25% of the first full month's rent (RCW 59.18.610). The state also caps late fees assessed to $75 during the unlawful detainer eviction process if a tenant reinstates their tenancy by paying back rent (RCW 59.18.410).

Washington Municipal Regulation

At the local level, multiple cities in Washington have prohibited or capped fees. The cities of Aberdeen, Auburn, Burien, Kenmore, Kirkland, Seattle, Shoreline, Tacoma, and Olympia have all adopted municipal regulations to limit and prohibit unfair fees and limit excessive fees.

[8] (Utah State Legislature, 2021)
[9] (Minnesota State Legislature, 2024)
[10] (California State Legislature, 2023)
[11] Colo. Rev. Stat. Ann. §38-12-106, Mass. Gen. Laws Ann. ch. 186, §15B, Vt. Stat. Ann. tit. 9, §4456a,
[12] Colo. Rev. Stat. Ann. §38-12-105, Conn. Gen. Stat. §47a-4, MN SF 3492 (enacted 2024), Nev. Rev. Stat. Ann. §118A.210, N.Y. Real Prop. Law §238-a, Utah Code Ann. §57-22-4, Va. Code Ann. §55.1-1204
[13] (National Consumer Law Center, 2024)

Late Fees – The cities of Aberdeen, Kenmore, Redmond, Shoreline, and Tacoma all cap late fees at 1.5% monthly rent; SeaTac caps late fees to 2% monthly rent; and Auburn, Burien, Seattle, and all cap late fees at $10 per month.

Pet Fees - In Washington, the cities of Seattle, Olympia, and Tacoma have each capped pet deposits to 25% of one month's rent and limit deposit charges to verifiable pet damage. Olympia allows a tenant to pay the pet deposit over three consecutive months, and Seattle and Olympia prohibit any other fee to have a pet.

Notice Fees - Auburn, Burien, and Shoreline have all placed restrictions on charging tenants for the delivery of notices.

Move-in costs – The Cities of Auburn, Burien, Kenmore, Kirkland, Olympia, Redmond, Seattle, SeaTac, and Shoreline all cap move-in costs, most limit total move-in costs to one months rent, with limited exceptions such as for subsidized housing.

A closer look at common fees

Pet rent is relatively new. In an article from 2014, a spokesperson from Apartments.com noted that pet rent was rare just two years prior, and one apartment manager stated that they only started to charge pet rent after being advised to do so by their financial advisor as a way to earn more money.[14] A 2021 national survey conducted by the Human Animal Bond Research Institute (HABRI) and Michelson Found Animals for the Pet Inclusive Housing Initiative found that only 9% of pets cause damage with an average repair cost of $210; most tenants pay out of pocket for repairs and only 2% of pets caused damage that required a deduction from the security deposit.[15] The survey found that, in 2021, the national average pet deposit was $232, the average one-time pet fee was $244, and the average monthly pet rent was $49. Excessive pet fees lead to higher rates of animal surrender and disproportionately impact lower-income households and minorities.[16]

In 2023, Colorado enacted HB 1068, which caps pet deposits at $300 and limits pet rent to $35 per month or 1.5% of monthly rent and prohibits charging pet rent based on breed.[17] The bill also prohibits dog breed restrictions for obtaining homeowners insurance. Similar legislation has been introduced in Washington D.C. to cap pet deposits and pet rent, ban nonrefundable fees for low-income housing and eliminate breed restrictions.

It is important to note that pets and assistance animals are different and are treated differently by law. Assistance animals, including service animals and emotional support animals, are not considered pets and a housing provider cannot charge a deposit, fee, or additional rent under federal fair housing regulations. However, tenants with assistance animals are still responsible for damage caused to the rental unit.

Pet rent is a barrier to rehousing homeless who face giving up their animal to find housing. The fees exceed the actual costs associated with pets. Pet related costs disproportionately impact populations of color and low-income household, who are more likely to pay higher fees[18]

[14] (Manning, 2014)
[15] (Human Animal Bond Research Institute and Michelson Found Animals, 2021)
[16] (Applebaum, Horecka, Loney, & Graham, 2021)
[17] (Colorado State Legislature, 2023)
[18] (Applebaum, Horecka, Loney, & Graham, 2021)

The question of whether increased tenant protections cause mom-and-pop landlords to leave the market has come up. A Seattle study found that increased regulatory protections did not lead to an increase in mom-and-pop landlords selling leaving the market.[1] Similarly, questions arose on whether capping late fees will disincentivize tenants from paying on time. There are anecdotes, but minimal research on this topic. What has been acknowledged is that corporate landlords in particular have used late fees in a punitive manner, and to earn extra profits.[19]

The Urban Institute has tracked rent payments for mom-and-pop rentals using data from Avail, a property management platform owned by Realtor.com, since January 2020.[20] The data is aggregated at the national, state, and metropolitan area. The Urban Institute tracked partial and full payments by month. Even during the pandemic eviction moratorium, the majority of people living in units owned by mom-and-pop landlords paid their rent on time, and when people were late, they often caught up by the end of the month. Tenants renting from small landlords in the Seattle Metropolitan Statistical Area (MSA) and in Washington paid their rent on time at higher rates that the national average.

Table 1 - National Small Landlord 2020-2024 Rental Payment Data – Urban Institute, Avail

	Monthly average percent of households that paid full rent by 6th of the month. (January 2020-July 2024)	Monthly average percent of households that paid full rent by the end of the month. (January 2020-July 2024)	Monthly average percent of households that paid full rent by 6th of the month. (July 2023-July 2024)	Monthly average percent of households that paid full rent by the end of the month. (August 2023-July 2024)
Seattle MSA	86%	91%	87%	93%
Washington	85%	91%	85%	92%
National	73%	83%	70%	82%

People living in multifamily housing also prioritized rent over other bills during the pandemic.[21] When someone falls behind on rent, excessive late fees create a barrier for a tenants' ability to catch up, leading tenants to fall further behind. Housing is a necessity and people want to maintain stable housing and avoid eviction proceedings. Like overdraft fees in banking, excessive late fees negatively impact those who are already struggling to get back on track.

Tenants in manufactured and mobile home parks face many of the same types of junk fees as those renting apartments of single-family homes, but they also encounter their own set of junk fees. Tenants in manufactured and mobile home parks often own their home but rent the land underneath and share access to common areas. Some of the fees they face include charges to park a car on the lot they rent, fees for pets in the home they own, fees for common areas, and unfair and excessive community rule violation fees. Ownership changes for manufactured housing also present a challenge, as tenants can suddenly face new fees.

[18] (Crowder, Reosti, Allen, & Hess, 2023)
[19] (Garboden & Rosen, 2019)
[20] (Urban Institute, 2024)
[21] (Mendoza, 2020)

Impacts in Bellingham

Bellingham residents are experiencing junk fees for housing. Some of the more common fees experienced by residents in Bellingham are administrative fees, excessive late fees, and pet fees.

Data collected from Apartments.com in September 2024 revealed a range of fees at apartment complexes. Out of 44 apartment listings, 27 listings included a one-time administrative fee, and 35 listings included an application fee. Administrative fees for apartments in Bellingham range from $100 to $300 while application fees range from $33 to $65 per applicant, including for cosigners. While many listings included application and administrative fees, most did not list other fees that a tenant may experience during their lease. One listing included the cost of valet trash ($20), a couple listed flat monthly fees for utilities.

Twenty-eight listings included monthly pet rent ranging from $25 per month per pet to $100 per month per pet, 24 listings included a one-time nonrefundable pet fee that ranged from $40 to $500, and 22 listings included a pet deposit ranging from $150 to $1,000 with the most frequently listed deposit amount being $200. Spot checking apartment complex listings on their proprietary websites, many state that they are pet friendly but do not list pet related costs.

In response to the call by Councilmember Cotton for locals to share their experiences renting in Bellingham, residents have spoken and written about what they have encountered. At least 20 people spoke about costs and challenges they have experienced during the public comment period at the City Council meeting on September 16, 2024. Anecdotes shared by residents show the pervasive nature of junk fees in rental housing and manufactured and mobile home parks in Bellingham. A few examples are listed below:

- One woman living at a manufactured housing park mentioned $50 per day late fees, $500 pet fees, $65 fees for park rule violations and parking fees for guests.
- Another renter experienced key fees, pet rent, and pet fees, and landscaping fees even though the tenants were responsible for mowing the lawn.
- One individual stated they were charged $725 in administrative fees, and additional administrative charges of $5 a month after the complex started managing electric utility billing instead of Puget Sound Energy.
- One person wrote that they were required to pay six months' rent up front because they did not meet the credit score requirement and could not find a cosigner who met the landlord's requirements.
- Multiple people noted that they are now charged a nonoptional "tenant benefits package" for things that they do not want or that were previously included in the base rent. One tenant reported that their benefit package cost $45 per month for access to the online payment portal, which they had previously accessed with no additional cost; for access to emergency maintenance, which is the landlord's responsibility; and for forgiveness on late rent once per year, for which they were charged monthly.
- Numerous people noted that they were surprised by the fees they were charged, and that they were not disclosed up front.
- Others felt pressured to decide if they would sign a lease for the next year, months in advance of when units are advertised, which limited their ability to shop around. If they later chose to move, they were charged fees to break their lease or have another person takeover their lease.

- One person reported being charged $50 per month to use the in-unit washer and dryer.

The goal is to have fair and transparent fees. Addressing junk fees in rental housing takes a multipronged approach, banning unfair fees, capping excessive fees, and requiring transparency and disclosure of fees in both advertisements and leases. When tenants can make informed decisions about where to rent based on the true cost of housing, they can have more stability and reduce housing insecurity. The proposed ordinances target each of these strategies.

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATING TO LANDLORD TENANT RELATIONS, ADOPTING A NEW CHAPTER IN TITLE 6 OF THE BELLINGHAM MUNICIPAL CODE PROHIBITING LANDLORDS FROM CHARGING TENTANTS UNFAIR OR EXCESSIVE FEES IN RESIDENTIALRENTAL AGREEMENTS AND LEASES

WHEREAS, rental vacancy rates continue to be below what is widely considered a healthy market of five to seven percent and continue to remain around two or three percent; and

WHEREAS, more than twenty-thousand Bellingham renters are cost-burdened, including at least 6,450 are severely cost-burdened, according to 2023 HUD Comprehensive Housing Affordability Strategy Dataset; and

WHEREAS, the National Consumer Law Center 2023 report "*Too Damn High How Junk Fees Add to Skyrocketing Rent*" finds that excessive and unfair fees make quality and habitable rental housing harder to access and afford; and

WHEREAS, the 2021 Zillow Consumer Housing Trends Report finds that renters of color pay more application fees and are required to pay higher security deposits; and

WHEREAS, the White House issued Fact Sheet: Biden-Harris Administration Takes on Junk Fees in Rental Housing to Lower Costs for Renters on July 19, 2023, which describes steps that the Biden-Harris administration has taken to crack down on rental junk fees and lower costs for renters; and

WHEREAS, the US Department of Housing and Urban Development published a Policy & Practice brief in July 2023 providing an overview of the research on rental fees and encouraging local governments to take action to limit and better disclose fees charged to renters in advance of and during tenancy; and

WHEREAS, Bellingham residents have shared their personal experiences with junk fees with the City Council during open public meetings including, most recently, during the Council meeting on September 16, 2024; and

WHEREAS, this ordinance is an exercise of the City of Bellingham's police and regulatory authority derived from Washington Constitution article XI, section 11 and is consistent with RCW 35.22.280.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

NEW SECTION. Sec. 1. A new chapter, designated as BMC 6.16, is added under the chapter heading "Prohibited Fees and Deposits in Residential Rentals" to read as follows:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

BMC 6.16.010 - Definitions.

For the purposes of this chapter:

“Assistance animal” means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person’s disability. An “assistance animal” is not a “pet”.

“Common area” includes any communal area, recreation room, open space, playground, or laundry room provided by the landlord to the benefit of tenants and guests.

“Dwelling unit” or “unit” has the same meaning as in RCW 59.18.030(10). For purposes of this ordinance, a “dwelling unit” or “unit” shall also include real property that is rented to a tenant for the placement of a tiny house or similar structure that is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household.

“Family member” includes spouses, domestic partners, former spouses, former domestic partners, adult persons related by marriage, siblings, persons who are 16 years of age or older who have a dating relationship, persons with a parent-child relationship including parents, stepparents, grandparents, adoptive parents, guardians, foster parents, or custodians of minors.

“Landlord” has the same meaning as in RCW 59.18.030(16).

“Late fee” means any fee, cost, or charge imposed by the landlord for the tenant's failure to pay rent in full after the specified grace period of at least five (5) days following its due date.

“Move-in fee” means any fee, cost, or charge imposed by the landlord before a tenant takes possession of a dwelling unit, including fees required to apply for tenancy (including processing fees and credit and background check charges), any fee to hold the unit, or security deposits, but excluding prepayment of rent (e.g., “last month’s rent”) and a pet damage deposit.

“Move-out fee” means any fee, cost, or charge imposed by the landlord in relationship to the termination of the rental agreement or vacation of premises, regardless of time it is imposed or paid (e.g. carpet cleaning fee or lease breaking fee) but excluding rent due or valid security deposit withholdings in accordance with RCW 59.18.283.

“Non-optional service” means a service or amenity required as a condition for the use and occupancy of a dwelling unit where a tenant cannot opt-out or substitute for that service. A “non-optional service” includes, for example, any mandatory parking permits, tenant benefit package, technology fee, renter insurance plan, utility service when the tenant does not have a direct account with the service provider, or a shared amenity cost. “Non-optional service” does not include utilities submetered so that the bill is for actual usage by the tenant.

City of Bellingham
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“Optional service” includes any fee, cost, or charge for a service or amenity that is not a condition for the use and occupancy of a dwelling unit, such as fees for furnishings, optional parking permits, Internet access, or additional storage space outside of the dwelling unit.

“Pet” or “Common household pet” means a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure or companionship rather than commercial purposes.

"Pet deposit" means any monies collected by a landlord from current or prospective tenant as a condition of permitting the tenant’s pet animals to reside in the dwelling unit of the tenant.

“Rent” has the same meaning as in RCW 59.18.030(29).

“Rental agreement” or "lease" has the same meaning as in RCW 59.18.030(30).

"Security Deposit" means any monies collected by a landlord from a prospective or current tenant as security for the performance of the tenant’s obligations set forth in the rental agreement.

“Tenant” has the same meaning as in RCW 59.18.030(34).

“Unfair or excessive fees” means fees, costs, or charges that are prohibited by State, Federal, or local law; fees, costs, or charges that are not agreed to by the tenant and disclosed in a rental agreement, lease, or addendum; and other fees identified in this chapter.

BMC 6.16.020 - Unfair or Excessive Fees Prohibited.

Landlords are prohibited from charging tenants “unfair or excessive fees”. For the purposes of this chapter, the term “unfair or excessive fees” includes, but is not limited to, the following:

1. Any rental application fees not complying with RCW 59.18.257 or exceeding $25.00, per applicant, whichever is less;

2. Any non-refundable fee charged prior to or at the beginning of the tenancy, except as expressly allowed under state law or in this section, such as rental application fees, pet deposits, or last month’s rent;

3. Any fee imposed by the landlord without the consent of the tenant at the renewal of the tenancy, except when expressly allowed under state law;

4. Any combination of move-in fees and security deposits that exceeds one month’s rent. If rent is not paid or otherwise apportioned on a monthly basis, then for the sole purpose of applying this limit the total rent shall be prorated on an equal, monthly basis and the total charge to a tenant for the cost of a security deposit and nonrefundable move-in fees may not exceed the pro-rated, monthly rental amount. If a tenant pays a portion of rent and the remainder is covered by a subsidy, “one

month's rent" includes both the tenant's payment and subsidy. A non-profit service provider may offer to pay a security deposit not to exceed the amount of two months' rent on behalf of their client(s) who do not currently meet the landlord's screening criteria, which the landlord may accept;

5. Any fee for the use of appliances in the dwelling unit including, for example, dishwashers, washer/dryer, and HVAC units. To comply with this section, the landlord must either include any fees, costs, or charges for using these appliances in the rent;

6. Any administrative fee for a rental agreement take-over or the addition of a tenant, imposed on either the current or prospective tenant with the exception of rental application fees allowed under this section and state law;

7. Any security deposit that is collected by a landlord, and any part of that deposit withheld, except when in compliance with the requirements for the collection, maintenance, and reimbursement set forth in RCW 59.18.260, RCW 59.18.270, and RCW 59.18.280;

8. Any pet damage deposit per dwelling unit that exceeds 20% of one month's rent, regardless of the time when the pet damage deposit is paid, or where the tenant or prospective tenant cannot elect to pay the pet damage deposit in three consecutive, equal monthly installments that begin when the tenant's pet first occupies the unit, or where the landlord may retain any part of the pet deposit exceeding the actual costs of repairing any pet damage. To comply with this section, the landlord shall treat the pet damage deposit as part of the security deposit, if any, and give the tenant a full and specific statement of the basis for retaining any of the pet deposit within 30 days after the termination of the rental agreement and vacation of the premises, and any documentation required for security deposits by RCW 59.18.280(2)(b), together with the payment of any refund due the tenant under the terms and conditions of the rental agreement;

9. Any single-time, monthly, or recurring fee for the right of a tenant's pet to occupy the unit, except as allowed under this section;

10. Any pet damage deposit, fee, or charge for an animal that serves as an assistance animal for the tenant, which is prohibited by 42 U.S.C. §§ 3601-3619;

11. Any fee or charge for late payment of rent exceeding $10.00, except as allowed by state or federal law;

12. Any fee for a dishonored check due to insufficient funds greater than the amount of the fee that a bank or other financial institution has charged the landlord for processing the dishonored check;

13. Any late fee when the late payment, or non-payment of any portion of the rent, when a subsidy provider is responsible for payment;

14. Any fee to accept rent payments or other payments. To comply with this section, the landlord must accept payments by personal check, money order, cashier's check, credit or debit card, cash, or bank transfer. Payments with debit or credit cards may include an additional processing charge equal to the amount that a bank or other financial institution charges the landlord for processing the transaction;

15. Any fee for the landlord to conduct regular inspections of the dwelling unit;

16. Any fee for a tenant's access to common areas or any fee for a pro rata share of utilities for those areas. This section does not apply when the fee is associated with providing the tenant with exclusive access to a common area facility on a temporary basis, such as the rental of a rental property's clubhouse or pool for a special event, nor does it prohibit the provision of coin- or card-operated laundry appliances outside of the dwelling unit;

17. Any charge for utilities greater than that charged by the utility service provider for the tenant's actual usage, with clear accounting provided to the tenant;

18. Any fee for bike parking or bike storage;

19. Any fee for mail and package collection and distribution;

20. Any fee for the performance of any landlord duty required by RCW 59.18;

21. Any fee for the replacement of a lost key that exceeds the actual duplication costs of the mechanical or electronic key plus $10. To comply with this section, a landlord must provide a replacement key, if requested;

22. Any fee for the tenant to access their dwelling unit if their keys are lost, damaged, or stolen that:

    a. Exceeds $10, if the request is made or fulfilled during standard business hours of 8:00 am to 5:00 pm, Monday through Friday, or if there is an on-site business manager or other agent of the landlord.

    b. To comply with this section, the landlord must assist the tenant with accessing the dwelling unit, if requested.

23. Any fee associated with the issuance of a notice to a tenant, unless the tenant is ordered to pay the fee by a court of competent jurisdiction;

24. Any fee for a rental agreement violation or noncompliance with a rental agreement, except as expressly allowed under state law;

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25. Any fee associated with the request, payment, receipt, or repayment of economic displacement relocation assistance under BMC 6.14;

26. Any fee to rent month-to-month instead of on an annual basis or vice versa, regardless of whether it is designated as additional rent;

27. Any move-out fee or lease-breaking fee, which does not include valid security deposit withholdings or rent due, or that is otherwise not allowed under RCW 59.18;

28. Any other fee, cost, or charge, whether a one-time or recurring fee, that is not disclosed in the rental agreement or lease and not later acknowledged and agreed by the tenant in a written addendum to the rental agreement;

29. Any fee for a non-optional service. To be in compliance with the section, those services must be included within the tenant's base rent; or

30. Any fee for an optional service that is assessed without an informed opt-in by the tenant or where the tenant may not later opt-out of the service and associated fee by providing one month's notice. To comply with this section, before any fee for an optional service is assessed:

    a. The landlord must inform the tenant in clear and conspicuous writing of tenants' right to receive access to the housing even if a tenant does not opt into receiving the good or service, and the amount or basis of the amount of the fee; and

    b. The tenant must, in writing, opt-in to the service and associated fee without penalty, as well as acknowledge their rights to not opt-in and to later terminate the service and associated fee by providing one month's notice to the landlord.

BMC 6.16.030 - Rental Agreement Provisions in Violation Null and Void.

1. Any provision of a rental agreement or lease that is entered into or renewed after the effective date of this chapter in violation of BMC 6.16.020 shall be deemed against public policy and shall be void and unenforceable.

2. After the effective date of this chapter, the inclusion of a prohibited provision in a new or renewed rental agreement is also a violation of this chapter.

BMC 6.16.040 - Transparency Disclosure of Fees, Charges, and Rent.

The prospective landlord shall include in any offer, display, or advertising to rent a dwelling unit, and in any rental agreement or lease for a dwelling unit:

1. The amount of rent;

2. The amount of any move-in fees, including applicant screening fees, any fee to hold the unit, or security deposits;

3. A clear statement of which utilities are included in the rent, if any, and which utilities will be the responsibility of the tenant including:

    a. Electricity,
    b. Gas,
    c. Water,
    d. Garbage and recycling,
    e. Cable or satellite television, and
    f. Internet service; and

4. The amount of fees, deposits, or charges for any optional goods or services that are not included in the rent price including the amount of the fee or charge and the tenant's right to enter a rental agreement if the prospective tenant opts out of receiving the optional goods or services, for example, the amount of a pet deposit.

BMC 6.16.050 - Retaliation Prohibited.

1. It is a violation of this chapter for any landlord or other person to retaliate against a tenant, prospective tenant, or other person attempting to exercise rights conferred by this chapter: Retaliation includes, but is not limited to, any of the following:

    a. Refusing to provide, accept, or approve a rental application, rental agreement, or renewal of a rental agreement;

    b. Applying more onerous terms, conditions, or privileges to a rental application process or rental agreement, including increased rent;

    c. Misrepresenting any material fact when providing a rental reference against a tenant; or

    d. Alleging, or threatening or making an implied willingness to allege, to a government agency that a tenant, prospective tenant, or a family member of the tenant or prospective tenant is without legal residency in the United States.

2. If a person takes any of the actions identified in this subsection within 90 days of the date that a tenant or prospective tenant has exercised their rights under this chapter, there shall be a rebuttable presumption that the action was taken in retaliation for the exercise of those rights.

3. Protections in this section apply to those who mistakenly but in good faith allege violations of this chapter.

BMC 6.16.060 - Civil Action Remedy.

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1. In addition to any other remedy provided by this chapter or allowed by law, any tenant, prospective tenant, or other person claiming injury may bring an action in a court of competent jurisdiction to enforce the provisions of this chapter and is entitled to all remedies available at law or in equity appropriate to remedy any violation of this chapter, including declaratory or injunctive relief.

2. A landlord or other person who is in violation of this chapter is liable to the tenant, prospective tenant, or other person in a private right of action for:

    a. Three times the actual damages suffered by the tenant or prospective tenant, or if actual damages are difficult to ascertain, then an amount equal to three times the monthly rent for the dwelling unit for a tenant, or up to $1,000 for a prospective tenant;

    b. Double the amount of any deposit unlawfully charged or withheld;

    c. Not more than $3,000 for any provision prohibited by this chapter in a new rental agreement, or in a renewal of an existing agreement, and $500 for a violation of Section 6.16.040; and

    d. Costs of suit or arbitration, reasonable attorney's fees, as well as other forms of relief.

BMC 6.16.070 - Additional Affirmative Defense to An Unlawful Detainer and Other Actions.

In addition to any other legal defense a tenant may have:

1. It is an additional affirmative defense to an unlawful detainer or other eviction action that a landlord is in violation of this chapter; and

2. It is a defense to any action to enforce a rental agreement, to impose penalties, or to forfeit a deposit contrary to the requirements of the chapter that the landlord is in violation of this chapter.

3. A tenant or other person who prevails in either defense shall be awarded reasonable attorney fees and costs.

BMC 6.16.080 - City Enforcement.

1. The Director is authorized to enforce this chapter, and it is unlawful to violate or fail to comply with any provision of this chapter.

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2. The Director may investigate any possible violations of this chapter by a landlord or other person.

3. Responsibility for violations subject to enforcement under this chapter is joint and several, and the City is not prohibited from taking enforcement action against a person where other persons may also be potentially responsible persons, nor is the City required to take enforcement action against all potentially responsible persons.

BMC 6.16.090 Penalties

1. A person violating this chapter commits a civil infraction and shall be issued a citation and assessed a monetary penalty as described in this section:

    a. A fine not to exceed $500.00 for a first violation; or

    b. A fine not to exceed $1,000.00 for a second or subsequent violation, or for any offenses involving retaliation.

    c. For the purposes of this section, it may be considered a separate violation for each tenant or prospective tenant affected and for each day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by the landlord.

2. A citation is final unless it is contested within 15 days of the date it is issued. Any person who receives a notice of infraction may contest the citation by requesting a hearing from the Bellingham Municipal Court within 15 days of the date of the citation.

3. The Director shall track complaints, investigations, and violations of this chapter, including penalties assessed and resolutions reached during each calendar year, and by March 31 of the following year beginning in 2026, issue a written report to city council.

BMC 6.16.090 - Miscellaneous Provisions.

1. Remedies and penalties provided in this chapter are in addition to any other existing legal remedies and are not intended to be exclusive.

2. Nothing in this chapter eliminates a tenant's rights under a rental agreement, including the right to civil relief if a landlord violates a rental agreement.

3. The provisions of this chapter may not be waived, and any term of any rental agreement or other agreement that purports to waive or limit a tenant's substantive or procedural rights under this chapter are contrary to public policy, unenforceable, and void.

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4. All provisions in this chapter should be read in harmony with state and federal law, and if there is any question or conflict between Bellingham and state law, state law will apply.

BMC 6.16.100 - Severability.

If any section, sentence, clause, phrase, or provision of this chapter or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, that invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this chapter, or the application of those provisions to other persons or circumstances, shall not be affected.

PASSED by the Council this _____ day of _____, 2024.

_____
Council President

APPROVED by me this _____ day of _____, 2024.

_____
Mayor

ATTEST:_____
Finance Director

APPROVED AS TO FORM:

_____
Office of the City Attorney

Published:

_____

City of Bellingham
City Attorney
210 Lottie Street
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Unfair and Excessive Rental & Manufactured/Mobile Home Park Fees "Junk Fees"

September 30, 2024

Outline

- Background
- What Are Unfair & Excessive Fees?
- Types of Rental Junk Fees
- Bellingham Renters
- Impact to Bellingham Renters
- Ordinances Addressing Junk Fees

Background

- Councilmember Cotton has worked with the public to find ways to address junk fees in rental housing and manufactured & mobile home parks
- On August 12, 2024, the City Council requested research and legislation prohibiting junk fees

What Are Unfair & Excessive Fees?

- Often called “Junk Fees”
- Excessive
- Unnecessary
- Deceptive or misleading
- Hidden
- Used to be included in rent and are now separate
- Separate charges for nonoptional items/services

Types of Rental Junk Fees

One-time Fees

- Application Fees
- Administrative Fees
- Nonrefundable Pet Fees
- Move-In Fees
- Move-Out Fees
- “January” Fees
- Late Fees

Recurring Fees

Convenience Fees

Pest Control Fees

Valet Trash Fees

In-Unit Appliance Fees

Pet Rent

Maintenance Fees

Mail Sorting Fees

Tenant Benefit Package Fees

Bellingham Renters

- More than half of households are renters
- Over half of renter households are cost-burdened
- Manufactured and mobile home parks are 2% total housing stock, but 16% of affordable housing (Consolidated Plan)

Monthly Housing Costs as a Percentage of Household Income - Renter-Occupied – Bellingham (2017-2022 ACS)					
Household Income Ranges	Less than $20,000	$20,000 to $34,999	$35,000 to $49,999	$50,000 to $74,999	$75,000 or more
Percentage of households paying 30%+ HH Income to housing (Cost Burdened)	94%	94%	82%	51%	12%

Impact to Bellingham Renters

Local Fees – In Advertisements

- Administrative fees $100-$300
- Application fees $33-$65
- Nonrefundable pet fees $40-$500
- Pet rent $$25-$100 per month per pet
- Valet Trash $20

Anecdotes from Locals

- Manufactured Homeowner - $50/day late fees, $500 pet fees, $65 park violation fees, parking fees for guests.
- $50/month to use in-unit washer and dryer
- Multiple renters were surprised by fees, charged for services not provided, charged nonoptional benefit package fees

Ordinances Addressing Junk Fees

- Prohibit unfair fees
  - E.g. Nonrefundable pet fees, pet rent, administrative fees
- Cap/Limit excessive fees
  - E.g. Cap late fees: $10, limit fees to actual cost
- Require disclosure and transparency
  - Include fees in lease and advertisements

Unfair and Excessive Rental & Manufactured/Mobile Home Park Fees "Junk Fees"

Presented by: Iris Nott
Legislative Policy Analyst, City Council Office

360.778.8204 ienott@cob.org

Weller, Jackie A.

From: CC - Shared Department (ccmail@cob.org)
Sent: Wednesday, September 11, 2024 11:23 AM
To: G.CC (City Council)
Subject: FW: Junk Fee Ordinance

From: Annie Wilce <sweatereater@gmail.com>
Sent: Tuesday, September 10, 2024 10:10 AM
To: CC - Shared Department (ccmail@cob.org) <ccmail@cob.org>
Subject: Junk Fee Ordinance

You don't often get email from sweatereater@gmail.com. Learn why this is important

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Dear City Council of Bellingham,

My name is Anne Wilce. I grew up in Bellingham and completed two degrees at WWU. I am writing to explain how excessive rental fees have affected me and my family and why I hope you will pass this ordiance to avoid predatory landlords getting away with exploitation.

After living in my apartment for several years, the property changed ownership. Instead of staying month-to-month, as we were currently, my new apartment manager requested I sign a new year-long lease. Upon inspecting the lease terms, I saw a plethora of new potential fees. A replacement key was $50, a clogged drain $150, lock change $200, and late payment $168. These steep fees gave me anxiety. But what was most shocking was the reletting fee of $1000 and month-to-month charge of $200 per month. If I ever wanted to change residence in any month that was not the one I moved in during, I would be subject to excessive charges (even if I found someone to take over my lease!). This inflexibility is unfounded and unfair. No one should have to plan their life around a rule like this; it is nearly impossible.

There is one more story I would like to share. My mother has lived in low-income housing for the last several decades, which is not surprising given the rent increases in Bellingham. She is an all-star tenant, always paying rent early and keeping her place in impeccable shape. Despite her living in a unit that is only a percentage of the market value, the rent increases outpaced her income increases. This also meant she could not retire, even as she entered her 70s. As a result, she was forced to move from Bellingham to Lynden just this year. Additionally, she was told during her recent move that she overpaid rent early in her tenancy and would receive a check when moving out for the balance. Yet when she checked back in, the building management had "lost" all accounting for the rental payments during that time period. This is very concerning and upsetting and makes us question whether these rental companies have any integrity left.

Please consider my experiences when you vote on this ordinance - the citizens of Bellingham will thank you.

Best,
Anne Wilce

Weller, Jackie A.

From: CC - Shared Department (ccmail@cob.org)
Sent: Monday, September 16, 2024 11:46 AM
To: G.CC (City Council)
Subject: FW: Letter of Support for Ordinance Amending Title 6 of BMC

-----Original Message-----
From: Laura Clark New <director@whatcomhumane.org>
Sent: Monday, September 16, 2024 11:44 AM
To: CC - Shared Department (ccmail@cob.org) <ccmail@cob.org>
Subject: Letter of Support for Ordinance Amending Title 6 of BMC

[You don't often get email from director@whatcomhumane.org. Learn why this is important at https://aka.ms/LearnAboutSenderIdentification]

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Councilmembers,

I'm writing to offer support on behalf of the Whatcom Humane Society for the proposed ordinance amending Title 6 of the Bellingham Municipal Code prohibiting unfair or excessive fees and adding tenant protections in the City.

As the animal control provider for the City of Bellingham and the only open admission animal shelter in the county, Whatcom Humane has seen an increase in surrendered companion animals arriving at our shelter facility due to housing issues faced by owners. Prohibitive pet deposits and monthly pet rental fees have created undue financial burdens for many residents, causing them to have to make heartbreaking decisions regarding their companion animals.

Adopting the ordinance proposed by Councilmember Cotton is a great start to help provide responsible renters with necessary protections for themselves and their beloved family companions.

I urge the Bellingham City Council to adopt this ordinance and continue your work to find ways to provide affordable and fair housing options for our two and four-legged residents.

Regards,

Laura Clark, executive director

Whatcom Humane Society

(360)733-2080 ext # 3026

director@whatcomhumane.org

PO Box 2463, Mount Vernon, WA 98273 | (360) 230-8101 | www.SkagitLegalAid.org

September 16, 2024

Sent via email: ccmail@cob.org

Bellingham City Council
10 Lottie Street
Bellingham, Washington 98225

Re: **Statement of Support for Bellingham Ordinances Creating Additional Protections Tenants**

Dear City Council,

Skagit Legal Aid represents low-income tenants residing in Whatcom County, as well as Skagit, San Juan, and Island Counties. We strongly support the City of Bellingham's proposed ordinances amending the Bellingham Municipal Code to prohibit unfair and excessive fees while providing additional protections for tenants. This ordinance is a necessary and timely measure to ensure housing affordability and fairness for all renters, particularly as more than 20,000 Bellingham renters are currently facing severe cost burdens.

From our perspective, we would like to emphasize two critical protections that are missing from current state law and disproportionately impact low-income renters:

1. Excessive Late Fees
We strongly support the proposed caps on late fees at $10 per month. While current state law imposes a $75.00 cap on late fees, landlords often circumvent this limit and exploit loopholes to charge tenants excessive amounts. Under RCW § 59.18.410, tenants who fall behind on rent can reinstate their tenancy by paying the overdue rent and up to $75.00 in late fees, provided the rental agreement allows for late fees. This rule applies regardless of any lease provisions that might attempt to impose higher late fees.

Despite the legal protections for tenants, landlords frequently impose and attempt to collect exorbitant late fees outside the formal eviction process. RCW § 59.18.283 expressly prohibits landlords from evicting tenants for failing to pay fees or charges that are not classified as rent or recurring charges. Even though state law forbids eviction for nonpayment of such non-rent fees,

landlords often keep these excessive charges on tenants' rental ledgers, refer them to collection agencies, and/or report negative information to credit bureaus. This practice severely harms tenants' financial health and credit and further destabilizes their already precarious situations. These fees accumulate, place an overwhelming financial burden on renters who are already struggling, and lead to unlawful eviction threats.

By setting clear and reasonable limitations on late fees, Bellingham has the opportunity to protect renters from unjust financial penalties and predatory practices. These limitations will help prevent the snowballing of late fees that too often contribute to housing instability, homelessness, and long-term financial hardship.

2. Extended Renewal Periods

The provision requiring landlords to keep lease renewal offers open for extended periods is a crucial tenant protection. Currently, many landlords in Bellingham pressure tenants to commit to renewing their lease far too early—sometimes as much as 10 to 11 months before the lease ends. At that point, tenants often lack the necessary information to make a well-informed decision about their housing future.

A particularly concerning reason landlords engage in this practice is to circumvent the protections under RCW § 59.18.650, which requires landlords to provide a "just cause" for terminating a tenancy. This applies if:

- The tenant is on a month-to-month lease, even if they previously had a written rental agreement.
- The tenant is in the middle of a fixed-term lease (e.g., 6 or 12 months), and the landlord seeks to terminate the agreement early.

If a lease ends without a notice of non-renewal, the tenancy automatically converts to a month-to-month agreement, and landlords may only evict tenants for specific just cause reasons. By pressuring tenants into early renewals, landlords avoid these just cause protections and make it easier to deny lease renewals and remove tenants without cause.

The proposed changes offer renters a more balanced option by giving them until 70 days before the end of their lease to decide whether to renew. This extension allows tenants sufficient time to evaluate their financial situation and other circumstances without facing the pressure of premature deadlines. Importantly, this requirement does not harm landlords, as state law already mandates that they provide tenants with at least 60 days' notice if they do not intend to renew the lease.

This protection is especially critical in Bellingham's housing market with vacancy rates far below healthy levels. Giving tenants more time to make informed housing decisions helps prevent sudden displacement and ensures they can secure stable, affordable housing.

It is equally important that landlords renting to college students are not exempt from these protections. College students, like other tenants, need adequate time to assess their housing options, particularly as they navigate the complexities of academic schedules, financial aid cycles, and life transitions. Many students face financial uncertainty and lack the stability that long-term working tenants may have. Forcing students into rushed renewal decisions could leave them scrambling for housing at the last minute. This provision relieves that pressure and permits student renters to make informed decisions without jeopardizing their housing stability.

Conclusion

In our direct experience working with vulnerable tenants, including those facing eviction and housing instability in Bellingham, we have seen how sudden fees and tight deadlines push already strained households to the brink of homelessness. These proposed ordinances recognize the need for fundamental tenant protections that prevent exploitative practices and ensure that housing remains accessible and affordable for all.

By enacting these ordinances, the City of Bellingham is taking a critical step toward improving tenant protections, promoting housing stability, and fostering a more equitable rental market. We urge the City Council to adopt this ordinance and continue working to support the rights of renters.

If you have any additional questions or concerns, please contact Skagit Legal Aid by phone at (360) 230-8101 or by email at director@skagitvlp.org.

Sincerely Yours,

Andrew Dugan
Executive Director, Skagit Legal Aid

Gail Smith
Chairperson, Skagit Legal Aid

Weller, Jackie A.

From: CC - Shared Department (ccmail@cob.org)
Sent: Tuesday, September 17, 2024 8:19 AM
To: G.CC (City Council)
Subject: FW: Public Comment for 09/16/2024

From: Kerri Burnside <together@bellinghamtenantsunion.org>
Sent: Monday, September 16, 2024 10:19 PM
To: CC - Shared Department (ccmail@cob.org) <ccmail@cob.org>
Subject: Public Comment for 09/16/2024

CAUTION: This message originated from outside of this organization. Please exercise caution with links and attachments.

Good evening Council members,

I spoke during public comment this evening but wish to add some additional information. According to the most recent data from the Whatcom County Health Department in 2021-2022, 56.1% of renter-occupied households in Whatcom County were cost-burdened. That means more than half of our renters are paying over 30% of their income on housing costs. Given the continued rise in rents since then, we can logically assume this number is even higher today. It is also concerning that Whatcom County is significantly higher than the State of WA average of 48.9% of income-burdened renters.

This is not just about numbers. When a community has such a large portion of its population struggling to pay for basic shelter, the ripple effects are felt everywhere. Cost-burdened households are less likely to spend in the local economy, which hurts small businesses and slows economic growth. Families are forced to cut back on essentials like food, healthcare, and transportation, impacting the overall well-being of our community. High rent burdens can also increase mental and physical health challenges, and limit people's ability to save for the future, further deepening economic inequality.

More importantly, high rents force individuals and families to make impossible choices—choices that too often result in people being priced out of their homes, or worse, becoming homeless. The ripple effects also extend to our schools, as housing instability affects children's performance and well-being. When families are constantly moving or worried about losing their homes, it becomes harder for kids to thrive in their education.

Additionally, renters are at a severe financial disadvantage in terms of long-term wealth building. When you rent a property, you're essentially paying to build someone else's wealth. Each month, your rent goes towards the property owner's mortgage, maintenance, and profits. While you cover these costs for them, you're not building any equity for yourself. Over time, homeowners gain financial security as the value of their property grows, and they build equity that they can borrow against or sell for a profit. In contrast, renters don't get to benefit from rising property values — instead, they face rent increases that often make it harder to save for a home of their own. Renting becomes a cycle where tenants spend years contributing to the financial well-being of their landlords, without gaining any of the long-term financial advantages that come with owning a home.

I’m asking you to prioritize rent stabilization measures, the junk fee ordinances proposed by Councilmember Cotton, and policies that ensure affordable housing for all income levels. We cannot wait for future development projects to solve this crisis. Bellingham's renters, who make up 54% of this community, need relief now. Too many people in our community are suffering.

I'd also like to remind you that HB2114, the Rent Stabilization bill, was a key piece of legislation we tried to pass during the 2024 legislative session. Unfortunately, it failed to make it out of the Senate Ways and Means Committee and the bill died. But we are preparing to try again during the 2025 legislative session with a revised bill. I encourage the City Council and the City of Bellingham to begin planning now on how you can help support the passage of rent stabilization next year. This issue is too important to wait. We need city leadership to get involved in advocating for this, as well as exploring what local actions Bellingham can take to address unaffordable housing in the meantime.

Lastly, I hope that someone can answer the following questions:

-
-
- Why is Whatcom County so much higher than the State average for cost-burdened renters?
-
-
-
- Who is looking into the best practices used across the state?
-
-
-
- What is the plan to address the rapidly growing number of income-burdened households?
-
-
- How is the use of the price setting algorithm CoStar (it is similar to Realpage and used by many property management companies in Whatcom County now that Realpage is being sued) impacting Whatcom County's rental prices?

Let's work together to create a city where housing is a human right, not a luxury.

Thank you,
Kerri
BTU Organizer

Lydia PLACE every family deserves a home

PO Box 28487, Bellingham, WA 98228
Phone: 360.671.7663 | Fax: 360.671.7038
TTY:711 or 800.833.6384
www.lydiaplace.org

9/23/2024

Dear City Council,

I am writing to share support of the draft ordinance seeking to amend Title 6 of the Bellingham Municipal Code by adopting a new chapter (6.16) as a means to prohibit unfair or excessive fees in residential dwelling units, and amend chapter 6.12 to adopt additional protections for tenants facing rent increases.

Lydia Place is an agency dedicated to disrupting the generational cycle of homelessness, and much of the work we do is rooted in providing access to permanent housing to families exiting homelessness. Lydia Place owns 20 of our own rental units, and partners with property management companies and private landlords all over the community to provide private-market rental units to the families we serve, averaging 150 placements at any given time.

Due to our scope of work and service to low-income renters, Lydia Place was sought to provide feedback on the draft ordinance. We also made connections so that Landmark and Windermere could be consulted in the process. They are two of the largest property management companies in Whatcom County who we rely on in partnership to create access to rental placement for our families and who also oversee thousands of rentals across the community on behalf of a diverse group of property owners.

One revision made because of our feedback was a temporary provision to allow for security deposits up to double the monthly rent amount. The families we serve are low-income and don't often meet the income requirements when applying for a unit. Because poverty is in many cases generational, many also do not have family or close friends that are able to be or qualify as a cosigner, which is a tool used by most property managers to provide reassurance if someone does not meet standard screening criteria. We began working with property managers to provide increased deposits, usually up to two times the rent limit, as a creative way to provide an alternative contingency in place of a consigner. While we hope to continue to advocate and find alternative ways to support property managers and owners in lowering rental screening criteria to increase accessibility of housing, this allowance is necessary at this time to avoid an immediate unintended consequence of these new protections.

We are thrilled to see the inclusion of protections against excessive fees and deposits on the clients we serve. The late fee cap is particularly impactful. The impact of excessive fees when you have a fixed income, and at times rely on support from community programs (i.e. applying for assistance when you are in arrears), is huge and can create a snowball effect that makes it hard to catch back up.

We hope, in addition to voting yes to approve these proposed amendments, that the City will also invest time and resources into the enforcement of these provisions. We have seen challenges with the families we serve when they need to advocate for themselves because of the power dynamics that can exist when someone has decision-making authority over access to housing. If someone is in an unsafe or unstable space, it is hard to justify time and resources to take someone to court when your rights are being violated, instead of spending time trying to find housing.

Lydia Place is committed to supporting this effort, and continuing to be a bridge in this difficult housing landscape our community is facing. If invited, we would be willing to be a part of an implementation task-force.

Thank you, council members, for your time and consideration of these important measures.

With gratitude,



Ashley Thomasson
Executive Director

Faye Guenther, President
Joe Mizrahi, Secretary-Treasurer

September 23, 2024

Bellingham City Council
210 Lottie Street
Bellingham, WA 98225

Subject: Unfair or Excessive Fees in Residential Dwelling Units and Manufactured/ Mobile Home Communities

Dear Mayor Lund and Members of the City Council,

On behalf of UFCW 3000 and NWWCLC, we are writing to express our strong support for Councilmember Cotton's proposed ordinances amending Title 6 of the Bellingham Municipal Code, which seek to prohibit unfair or excessive fees in residential dwelling units and manufactured/mobile home communities. As a union and central labor council representing a sizable number of renters in Bellingham, we recognize how crucial affordable housing is to the stability and wellbeing of our members and the community at large.

Housing costs are a top concern for our members, who are already burdened by rising rents and the high cost of living. The additional imposition of unfair fees—whether in residential rentals or manufactured home communities—only adds to their financial stress and threatens their ability to maintain stable housing.

The first ordinance, which prohibits unfair and excessive fees in residential dwelling units, addresses the widespread issue of predatory fees that can make renting unaffordable for many in our community. This includes excessive move-in fees, non-optional service fees, and other hidden costs that disproportionately impact renters. By setting clear limits on what landlords can charge, this ordinance provides much-needed protections for our members and all renters in Bellingham.

Similarly, the second ordinance, which extends these protections to tenants in manufactured/mobile home communities, is equally important. Manufactured home parks are a vital source of affordable housing in Bellingham, and those who live there deserve the same protections from predatory practices. This ordinance ensures that residents of these communities are not subjected to excessive fees and are afforded the same rights and protections as other renters in the city.

As a union and central labor council, we are committed to advocating for policies that support and protect our members, especially when it comes to essential issues like housing. We believe

that these ordinances are critical steps in ensuring that all Bellingham residents have access to fair, affordable, and secure housing.

We strongly urge you to pass these ordinances and continue your efforts to address the housing challenges facing our community. The members of UFCW 3000 and NWWCLC, along with all renters in Bellingham, will greatly benefit from the protections these measures provide.

Thank you for your leadership on this issue and for your continued commitment to the residents of Bellingham.

Sincerely,

Faviola Lopez
UFCW3000 Political and Community Organizer
She/Her/Ella Pronouns
360.840.8880 (cell)
flopez@ufcw3000.org

Tony Melillo
President
Northwest Washington CLC, AFL-CIO
President@nwwclc.com | 360.393.9225

September 30, 2024

City of Bellingham
Mayor and City Council
Bellingham City Hall
210 Lottie Street
Bellingham, WA 98225

RE: Support for the Ordinance to Prohibit Unfair or Excessive Rental Fees

Dear Mayor Lund and Members of the City Council:

On behalf of the undersigned organizations, we write to offer our strong support for the proposed Ordinance to Prohibit Unfair or Excessive Rental Fees ("Ordinance"), which is scheduled for public hearing on September 30th. We collectively believe that pets and people belong together; that financial circumstances alone are not reliable indicators of the capacity to love and care for a companion animal, and that the strong bonds between people and pets make for healthier communities. The proposed Ordinance would remove significant barriers to having pets in housing and reduce the devastating trend of housing-related pet surrenders.

Nearly two thirds of Washington residents have a pet and 97% of pet owners consider their pets part of their family. But sadly, at a time of unprecedented housing challenges, the cost and availability of housing that allows pets is an increasing challenge for loving and responsible pet owners. As a result, tens of thousands of dogs and cats are relinquished to Washington's animal shelters every year, breaking apart families and adding additional stress to already difficult situations. The solutions found in the Ordinance can keep families whole and stem this heartbreaking trend by removing harmful barriers on pets.

A national study conducted by the ASPCA revealed that those who rent are more likely to need to rehome their pets for housing issues than for any other reason.[1] Costly pet deposits, pet-related fees, and additional monthly "pet rent" are all roadblocks renters encounter as they attempt to find a place to live with pets. According to an apartments.com survey of 3,000 renters, close to 80 percent of respondents said they were required to pay a pet deposit or other costs to include a pet in their household. Nationally, research shows that pet-owning residents are paying an average of $857 in

[1] Weiss, E., Gramann, S., Spain, V., & Slater, M. (2015). Goodbye to a good friend: An exploration of the re-homing of cats and dogs in the U.S. Open Journal of Animal Sciences. 5: 435- 456.

combined security and pet deposits, an average of $244 onetime pet fees, and an average of $600 annually in monthly pet fees. (HABRI and Michelson Found Animals, 2021 Pet Inclusive Housing Initiative.)

A recent survey of rental properties in Bellingham found that most properties surveyed did not allow pets, had significant restrictions (such as 1 pet of 25 pounds or under), or assess pet-specific rent, deposits, and/or fees. Among the latter, the average up front pet fee is $400 and the average monthly pet rent is $30. In some cases, pet fees are assessed on a per pet basis.

These upfront and ongoing costs can be the breaking point as families struggle to find cost appropriate housing that includes their pets. In particular, market factors have made it increasingly difficult for lower income households to maintain a pet. A recent study found that lower income communities and communities of color are more likely to pay disproportionately higher fees to keep pets in their homes.[2] More broadly, there is evidence that there are far fewer pet-friendly housing options available to lower income households.

This burden may lead to both housing insecurity and owners surrendering their pets to local shelters and rescues. Furthermore, it is a primary reason for a growing socioeconomic disparity in households with pets. Washington's Fair Market Rent (FMR) for a two-bedroom apartment is $1,889. In order to afford this level of rent and utilities — without paying more than 30% of income on housing — a household must earn $6,296 monthly or $75,556 annually. Assuming a 40-hour work week, 52 weeks per year, this level of income translates into an hourly Housing Wage of $36.33.[3] For those earning the state's minimum wage of $15.74, they are already facing difficult decisions about housing. But even at twice the minimum wage, the additional costs can push households over their financial threshold and force them to choose between housing and their pets.

Extensive interactions with landlords have revealed that many landlords have an unsubstantiated belief that all pets will create significant damage to their property. Recent studies have found that there is little, if any, difference in damage between tenants with and without pets.[4] Only 9% of pets are reported to cause any damage whatsoever, and the average damages are only $210. Furthermore, only 2% of pets caused damage requiring a security deposit deduction, with the majority of pet owners paying out of pocket to fix any damages.

Conversely, there are a number of benefits that both landlords and the community realize when pets are allowed.[5] For example, according to one study, 83% of owners/operators say that pet-friendly vacancies can be filled faster. Furthermore, 21% of residents in pet-friendly housing stay longer than

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[2] Applebaum, et al., *Pet-Friendly for Whom? An Analysis of Pet Fees in Texas Rental Housing* (2021 Nov 8) https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8606550/.

[3] National Low Income Housing Coalition, Out of Reach (2023) https://nlihc.org/sites/default/files/oor/Washington_2023_OOR.pdf.

[4] Human Animal Bond Research Institute and Michelson Found Animals, "On average pets only cause $210 in damage to rental units" https://fapihitemp.wpengine.com/wp-content/uploads/2022/10/PIHI-Sept20-2.pdf.

[5] *Companion Animal Renters Study: The Market for Rental Housing for People with Pets,* The Pet Savers Foundation, https://www.petfinder.com/dogs/living-with-your-dog/pet-friendly-housing-study/ (2004).

those who don't allow pets.[6] This means lower marketing and turnover costs and downtime. These benefits mean money in the pockets of property owners.

Additionally, integrating pets into communities is a significant way to contribute to the overall public health. At times of stress, such as during financial or housing instability, pets provide vital emotional support. Beyond that, according to the Centers for Disease Control and Prevention, pets have positive impacts at nearly every stage of life.[7] Pets influence social, emotional, and cognitive development in children, promote an active lifestyle, and have been able to detect oncoming epileptic seizures or the presence of certain cancers. Research has shown that cats provide emotional support, improve moods, and contribute to the overall morale of their owners. Cats are also credited with promoting socialization among the elderly and physically or mentally disabled people. Furthermore, people with pets tend to have lower blood pressure, cholesterol and triglyceride levels. These benefits are consistent with goals to holistically address the social, economic, and health outcomes that we strive for.

By promoting pet-friendly housing, the state has at its discretion the ability to open up thousands of new pet-friendly housing opportunities, reduce the strain on local animal sheltering and rescue organizations, strengthen communities and families, and improve public health outcomes. We ask for your support for the proposed Ordinance so that fewer households are faced with the difficult decision of giving up their pet.

Sincerely,

Susan Lea Riggs
Sr. Director of Housing Policy
ASPCA®
susan.riggs@aspca.org

Kelsey Gilmore-Futeral, Esq.
Legislative Attorney
Best Friends Animal Society
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[6] Human Animal Bond Research Institute and Michelson Found Animals, https://fapihitemp.wpengine.com/wp-content/uploads/2022/10/PIHI-Sept20-2.pdf.
[7] Healthy Pets Healthy People, Centers for Disease Control and Prevention https://www.cdc.gov/healthypets/health-benefits/index.html (April 30, 2014).

LAW ADVOCATES of WHATCOM COUNTY
SINCE 1987

Providing access to justice for low-income Whatcom County residents.

Email: jacotton@cob.org

Dear Council Member Cotton:

Thank you for contacting LAW Advocates and asking for our input on two new chapters proposed for the Bellingham Municipal Code: Chapter 6.16 – Rental Fees and Deposits, and Chapter 6.19 – Prohibited fees in Manufactured Home Communities.

LAW Advocates, as a legal aid organization serving low-income residents of Whatcom County including Bellingham, supports adoption of both these new proposed chapters.

By prohibiting unfair and excessive fees, both the proposed Chapters address an immediate concern faced by many of our housing clients. With local vacancy rates so low and rents rising so quickly, most Bellingham tenants are unable to negotiate regarding particular fees when they are offered a rental unit or a lot in a mobile home park. Sometimes, a tenancy that seems affordable based on the rent can become unaffordable because of added fees. Controlling these fees can effectively save tenancies that are put at risk where a tenant falls behind in payments.

Both these chapters will help keep housing affordable and will help ensure that tenants pay periodic fees only where they are receiving a real benefit. The proposed BMC 6.16.040 (requiring transparent disclosure of fees in offers, displays and advertisements) makes housing costs clearer, which is good for both residential tenants and landlords.

The enforcement provisions in both chapters are also important. Without meaningful consequences for landlords who choose to ignore these rules, some tenants will continue to be exploited with little recourse. Accountability is key to ensuring that landlords act in good faith and that tenants are not left vulnerable to ongoing violations.

LAW Advocates appreciates Bellingham City Council's ongoing efforts to protect tenants' rights and ensure fair treatment in the rental market and asks that these two new chapters be adopted.

Kind Regards,

David Henken
Board Chair

Heidi Bode
Executive Director

Board of Directors

David Henken, Chair
Northwest Justice Project

Zac Bryant, *Vice Chair*
Mainstay Law, LLC

Arundel Pritchett, *Secretary*
Prichett & Jacobson, PS

Ziad I. Youssef, *Treasurer*
Legal Care Center of Whatcom County

Junga Cha
Cha & Alexander Law Firm

Gail Smith
Attorney

Alejandra Cabrales
The Whatcom Law Group

Adam Engst,
Whatcom County Bar Assoc.
Brett McCandlis Brown & Conner

Kirsten Barron, *Advisory Member*
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THE ALLIANCE for Equal Justice
MEMBER

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Phone O 360.671.6079

website: www.lawadvocates.org

northwest youth services

1020 North State Street
Bellingham, WA 98225
(360) 399-8513

To Whom It May Concern,

I, Addison Ausley, am writing this letter on behalf of Northwest Youth Services in support of the ordinance amending Title 6 of the Bellingham Municipal Code by adopting a new chapter prohibiting unfair or excessive rental fees and amending Chapter 6.12 to adopt additional protections for tenants facing rent increases.

As a non-profit housing provider, we have seen excessive security deposits acting as landlord incentives in order for our participants to obtain a unit. These security deposits can be double or triple the monthly rent amount. Without the financial support provided by NWYS, houseless young adults would continue to remain unhoused as these fees are not coverable based on their earned income.

Additionally, capping of late fees, and enforcement of said capping, is a critical step that needs to be addressed. Continued daily charging of late fees for renters perpetuates the system of oppression that is in place to keep young people in a constant state of panic and hopelessness.

The state of Bellingham's housing market is geared for those that are making 80% area median income or higher. The mission of our organization is to end youth and young adult homelessness, but the current market of misleading postings, hidden fees, and applicant bias prohibits young adults from exiting the harmful system that is houselessness.

We encourage the City of Bellingham to pass this ordinance to lessen the divide and call out the power dynamic that is seen daily in our community.

Thank you,

Addison Ausley

Addison Ausley
Director of Whatcom Housing Services
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(360) 399-8513

1814 Cornwall Ave
Bellingham, WA 98225
Tel. (360) 734-8680
Fax 1-206-299-3025

Toll Free 1-800-562-8836
www.nwjustice.org

Northwest Justice Project

September 25, 2024

Dear Councilmember Cotton,

Thank you for your written invitation to provide comment on two proposed ordinances for the City of Bellingham: Chapter 6.16 – Rental Fees and Deposits, and Chapter 6.19 – Prohibited Fees in Manufactured Home Communities.

As legal aid attorneys who defend Bellingham tenants in eviction matters, we support the adoption of both these proposed chapters.

The core provisions of both chapters, prohibiting unfair or excessive fees, address a very real problem faced by local renters. The most common basis for eviction we currently see among Bellingham renters and other Whatcom County renters is nonpayment of rent. Dwellings which seemed affordable can turn out to be unaffordable because of fees charged by the landlord. Unreasonable pet fees, notice fees and late fees are particularly common culprits.

One strategy we frequently employ to try to preserve a tenancy is negotiation of a payment plan. Unlawful fees are pared away from the unpaid balance as part of this negotiation, and not infrequently this is a key factor bringing repayment within reach of the tenant. Similarly, this paring away of unlawful fees can preserve the tenancy where the court orders a writ of eviction to be stayed (paused) while the tenant attempts court-ordered repayment pursuant to RCW 59.18.410.

It is important to specifically identify violations of these ordinances as defenses to evictions, and to provide for city enforcement. Without meaningful enforcement provisions, unscrupulous landlords can simply play the odds of charging disallowed fees with reasonable confidence that the return will be greater than the risk of an enforced penalty.

Renters risk the security of their housing if they individually contest these issues with an unscrupulous landlord. The possibility of an unfavorable reference from such a landlord because of the dispute also can put the renter's future housing opportunities at risk.

When a tenancy ends, it often isn't worth the trouble to many renters to pursue affirmative legal action over these types of charges, especially once they have moved on with their lives and could be in an entirely different city or state.

Also, the nature of eviction proceedings generally prohibits tenants from making counterclaims against their landlord. Often, the court will not consider a landlord's unlawful actions when deciding whether or not to evict a tenant unless those actions raise a defense specified in a statute or ordinance.

Specifically denoting violations of these ordinances as a defense to eviction, and providing for city enforcement, overcomes these problems and create a tangible penalty for violators that does not harm landlords who are otherwise complying with the law.

We appreciate the City Council's ongoing work to protect Bellingham tenants.

Sincerely,

David Henken
Attorney - Eviction Prevention Unit

Nate Christiansen
Attorney – Eviction Prevention Unit

City Council Agenda Bill

24254

Bill Number

Subject: **An Ordinance Related to Manufactured/Mobile Home Landlord Tenant Relations, Adopting a New Chapter in Title 6 of the Bellingham Municipal Code Prohibiting Landlords from Charging Unfair or Excessive Fees in Manufactured/Mobile Home Lease Agreements**

Summary Statement: An increasing concern in our community and many others is the proliferation of various fees associated with residential dwelling unit applications, lot rental rates, leases and/or purchase agreements. Examples of such fees – also referred to as "junk fees" – include move-in fees, rental application fees, pet fees, and various administrative fees. Some exceed the actual cost of a given service, are not linked to an expense, are misleading or not disclosed in advance. Federal, state, and local governments are taking actions to support consumer interests regarding junk fees. The proposed ordinance seeks to address junk fees in Bellingham, including defining fees that qualify as "unfair or excessive," establishing fines and other civil penalties, and prohibiting retaliation against those attempting to exercise their rights.

Previous Council Action: **On August 12, 2024, Council directed the Legislative Policy Analyst and City Attorney's Office to research legislation related to prohibiting excessive fees at residential rentals and mobile home parks and review Council Member Cotton's draft ordinances.**

Fiscal Impact: **To be determined**

Funding Source: **General Fund**

Attachments:
1. ORDINANCE
2. PRESENTATION
3. WRITTEN PUBLIC COMMENT RECEIVED BY COUNCIL

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Direction Requested	09/30/2024	Provide Direction	Council Member Jace Cotton, Iris Nott, Legislative Policy Analyst, and James Erb, Deputy City Attorney	15 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Iris Nott, 360-778-8204

Council Action:

Reviewed By	Department	Date
Alan A. Marriner	Legal	09/24/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/25/2024

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, RELATED TO MANUFACTURED/MOBILE HOME LANDLORD TENANT RELATIONS, ADOPTING A NEW CHAPTER IN TITLE 6 OF THE BELLINGHAM MUNICIPAL CODE PROHIBITING LANDLORDS FROM CHARGING UNFAIR OR EXCESSIVE FEES IN MANUFACTURED/MOBILE HOME LEASE AGREEMENTS

WHEREAS, manufactured home parks are important and threatened sources of affordable housing and this ordinance provides equal protection to manufactured home parks as other tenants; and

WHEREAS, manufactured home parks comprise about 2.5% of Bellingham's total housing stock but represent 16% of the affordable housing, according to the 2023-27 Consolidated Plan; and

WHEREAS, stronger consumer protections for mobile homeowners aligns with the intent of steps taken by the City of Bellingham to preserve manufactured home parks as a source of affordable housing, including the mobile home park overlay and continued investments in home retrofitting; and

WHEREAS, junk fees are a growing problem across the country, as corporations nickel and dime consumers with excessive and unfair fees, including in rental housing and manufactured home parks; and

WHEREAS, this ordinance is an exercise of the City of Bellingham's police and regulatory authority derived from Washington Constitution article XI, section 11 and is consistent with RCW 35.22.280.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

NEW SECTION. Sec. 1. A new chapter, designated as BMC 6.19, is added under the chapter heading "Prohibited Fees in Manufactured Home Communities" to read as follows:

BMC 6.19.010 - Definitions.

For the purposes of this chapter:

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or that provides emotional support that alleviates one or more identified effects of a person's disability. An "assistance animal" is not a "pet".

"Base rent" means a recurring and periodic charge identified in the lease agreement for use and occupancy of a manufactured/mobile home lot.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

“Common area” includes any communal area, recreation hall, center, or any building or structure, including improvements thereto or open space provided by the manufactured housing community owner for the benefit of residents and their guests.

“Family member” includes spouses, domestic partners, former spouses, former domestic partners, adult persons related by marriage, siblings, persons who are 16 years of age or older who have a dating relationship, persons with a parent-child relationship including parents, stepparents, grandparents, adoptive parents, guardians, foster parents, or custodians of minors.

“Landlord” means the owner of a mobile home park, or other lots leased by manufactured/mobile homeowners, and in addition means any person designated as representative of the owner including an agent, a resident manager, or a designated property manager.

“Late fee” means any fee, cost, or charge imposed by the landlord for the tenant's failure to pay rent in full within five or more days following its due date.

“Lease agreement” has the same meaning as a rental agreement under RCW 59.20.050 of the Manufactured/Mobile Home Landlord Tenant Act.

"Manufactured/mobile home lot” has the same meaning as RCW 59.20.030(12).

“Non-optional service” means a service or amenity required as a condition for use and occupancy of a manufactured/mobile home lot where a tenant cannot opt-out or substitute for that service. “Non-optional service” does not include utilities submetered, so the bill is for actual usage.

“Pet” or “Common household pet” means a domesticated animal, such as a dog or cat, that is commonly kept in the home for pleasure or companionship rather than commercial purposes.

"Pet deposit" means any monies collected by a landlord from current or prospective tenant as a condition of permitting the tenant’s pet animals to reside in the dwelling unit of the tenant.

"Security Deposit" means any monies collected by a landlord from a prospective or current tenant as security for the performance of the tenant’s obligations set forth in the lease agreement.

“Tenant” has the same meaning as in RCW 59.20.030(27). Also, a tenant is any person who is entitled to occupy a manufactured/mobile home lot, or the dwelling unit on that lot, primarily for living or dwelling purposes under a lease agreement.

“Unfair or excessive fees” means fees, costs, or charges that are prohibited by State, Federal, or local law; fees, costs, or charges that are not agreed to by the tenant and disclosed in a rental agreement, lease, or addendum; and other fees identified in this chapter.

BMC 6.19.020 - Unfair or Excessive Fees Prohibited.

Landlords are prohibited from charging tenants “unfair or excessive fees”. For the purposes of this chapter, the term “unfair or excessive fees” includes, but is not limited to, the following:

1. Any fee associated with the issuance of a notice to a tenant, whether or not the notice is required by state law, including a fee for preparing and delivering a notice regarding late payment of rent, a notice to pay or vacate, a notice to enter premises, or a notice of noncompliance with a lease agreement;

2. Any fee for a lease violation(s) or noncompliance with a lease agreement exceeding $10 or where a tenant has not first been provided a 30-day notice of non-compliance;

3. Any fee for the performance of any landlord duty required by RCW 59.20.130;

4. Any fee for the installation of appliances by the tenant or by third parties;

5. Any fee for a family member’s occupancy of the unit;

6. Any fee for temporary guests not in compliance with RCW 59.20.060 or where charges exceed the actual costs to the landlord;

7. Any administrative fee for a lease take-over or the addition of a tenant, imposed on either the current or prospective tenant, with the exception of application fees allowed under state law;

8. Any security deposit collected by a landlord, and any part of that deposit withheld, except when in compliance with the requirements for the collection, maintenance, and reimbursement set forth in 59.20.160, 59.20.170, and 59.20.180;

9. Any fee for a tenant's access to common areas. This section does not apply when the fee is associated with providing the tenant with exclusive access to a common area facility on a temporary basis, such as a rental of a clubhouse for a special event;

10. Any fee for a tenant to park vehicles within their manufactured/mobile home lot;

11. Any fee, whether one-time or recurring, not disclosed in the lease agreement or in an addendum to the lease agreement that must be acknowledged by the tenant;

12. Any fee or additional charge to rent month-to-month instead of on an annual basis, regardless of whether the fee is designated as additional rent;

13. Any fee for not signing a new lease agreement;

14. Any pet deposit, fee, or charge for an animal that serves as an assistance animal for the tenant, which is prohibited by 42 U.S.C. §§ 3601-3619;

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

15. Any pet deposit, fee, or other charge;

16. Any fee to accept rent payments or other payments. To comply with this section, the landlord must accept payments by personal check, money order, cashier's check, credit or debit card, cash, or bank transfer. Payments with debit or credit cards may include an additional processing charge equal to the amount that a bank or other financial institution charges the landlord for processing the transaction;

17. Any fee for a dishonored check due to insufficient funds greater than the amount of the fee that a bank or other financial institution has charged the landlord for processing the dishonored check;

18. Any fee or charge for late payment of rent exceeding $10.00 per month or after the termination of a tenancy. To comply with this section, a timely payment of a new periodic rent amount shall toll the accrual of late fees for a previous unpaid balance;

19. Any late fee when the late payment, or non-payment of any portion of the rent, when a subsidy provider is responsible for payment; or

20. Any fee for services and amenities previously included in the base rent for the dwelling unit or provided to current or immediately prior tenants at no cost.

BMC 6.19.030 - Lease or Community Rules Provisions in Violation Null and Void.

1. Any lease provisions in violation of this chapter in a lease agreement, or community rules not contained within the lease agreement, are null and void.

2. The inclusion of a prohibited provision in a new or amended lease agreement after the effective date of this chapter is also a violation of this chapter.

3. Misrepresenting to a tenant who has an automatically renewing lease agreement that the tenant must sign a new lease agreement is also a violation of this chapter.

4. Failure to provide the tenant with a copy of their signed lease agreement within two weeks of entering into a new written agreement is also a violation of this chapter.

BMC 6.19.040 - Retaliation Prohibited.

1. It is a violation of this chapter for any landlord or other person to retaliate against a tenant, prospective tenant, or other person attempting to exercise rights conferred by this chapter: Retaliation includes, but is not limited to, any of the following:

    a. Refusing to provide, accept, or approve an application, lease agreement, or renewal of a lease agreement;

b. Applying more onerous terms, conditions, or privileges to a rental application process or lease agreement, including increased rent;

c. Misrepresenting any material fact when providing a rental reference against a tenant; or

d. Alleging, or threatening or making an implied willingness to allege, to a government agency that a tenant, prospective tenant, or a family member of the tenant or prospective tenant is without legal residency in the United States.

2. If a landlord or other person takes any of the actions identified in this subsection within 90 days of the date the tenant or prospective tenant has exercised their rights under this chapter, there shall be a rebuttable presumption that the action was taken in retaliation for the exercise of those rights.

3. Protections in this section apply to those who mistakenly but in good faith allege violations of this chapter.

BMC 6.19.050 - Civil Action Remedy.

1. In addition to any other remedy provided by this chapter or allowed by law, any tenant, prospective tenant, or other person claiming injury may bring an action in a court of competent jurisdiction to enforce the provisions of this chapter and is entitled to all remedies available at law or in equity appropriate to remedy any violation of this chapter, including declaratory or injunctive relief.

2. A landlord or other person who is in violation of this chapter is liable to the tenant, prospective tenant, or other person in a private right of action for:

    a. Three times the tenant's, prospective tenant's, or other person's actual damages, or if actual damages are difficult to ascertain, then an amount equal to three times the monthly base rent;

    b. Double the amount of any security deposit unlawfully charged or withheld;

    c. Not more than $10,000 for any provision prohibited by this chapter in a new lease agreement, or in an amendment to an agreement or in published community rules; and

    d. Costs of suit or arbitration, reasonable attorney's fees, as well as other forms of relief.

BMC 6.19.060 - Additional Affirmative Defense to An Unlawful Detainer and Other Actions.

In addition to any other legal defense a tenant may have:

1. It is an additional affirmative defense to an unlawful detainer or other eviction action that a landlord is in violation of this chapter.

2. It is a defense to any action to enforce a lease agreement, to impose penalties, or to forfeit a deposit contrary to the requirements of the chapter that the landlord is in violation of this chapter.

3. A tenant or other person who prevails in either defense shall be awarded reasonable attorney fees and costs.

BMC 6.19.070 - City Enforcement.

1. The Director is authorized to enforce this chapter and may promulgate rules and regulations consistent with this chapter, and it is unlawful to violate or fail to comply with any provision of this chapter

2. The Director may investigate any possible violations of this chapter by a landlord or other person, including individual and portfolio-wide investigations.

3. Responsibility for violations subject to enforcement under this chapter is joint and several, and the City is not prohibited from taking action against a person where other persons may also be potentially responsible persons, nor is the City required to take action against all potentially responsible persons.

4. A person violating this chapter commits a civil infraction and shall be issued a citation and assessed a monetary penalty as described in this section:

    a. A fine not to exceed $500.00 for a first violation; or

    b. A fine not to exceed $1,000.00 for a second or subsequent violation, or for any offenses involving retaliation.

    c. For the purposes of this section, it may be considered a separate violation for each tenant or prospective tenant affected and for each day during any portion of which any violation of any provision of this chapter is committed, continued, or permitted by the landlord.

5. A citation is final unless it is contested within 15 days of the date it is issued. Any person who receives a notice of infraction may contest the citation by requesting a hearing from the Bellingham Municipal Court within 15 days of the date of the citation.

6. The Director shall track complaints, investigations, and violations of this chapter, including penalties assessed and resolutions reached during each calendar year, and by March 31 of the following year beginning in 2026, issue a written report to city council.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

BMC 6.19.090 - Miscellaneous Provisions.

1. Remedies and penalties provided in this chapter are in addition to any other existing legal remedies and are not intended to be exclusive.

2. Nothing in this chapter eliminates a tenant's rights under the lease agreement, including the right to civil relief if a landlord violates the lease agreement.

3. The provisions of this chapter may not be waived, and any term of any lease agreement or other agreement that purports to waive or limit a tenant's substantive or procedural rights under this chapter are contrary to public policy, unenforceable, and void.

4. All provisions in this chapter should be read in harmony with state and federal law, and if there is any question or conflict between Bellingham and state law, state law will apply.

BMC 6.19.100 - Severability.

If any section, sentence, clause, phrase, or provision of this chapter or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, that invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this chapter, or the application of those provisions to other persons or circumstances, shall not be affected.

PASSED by the Council this _____ day of _____, 2024.

_____
Council President

APPROVED by me this _____ day of _____, 2024.

_____
Mayor

ATTEST:_____
Finance Director

APPROVED AS TO FORM:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

Office of the City Attorney

Published:

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

Unfair and Excessive Rental & Manufactured/Mobile Home Park Fees "Junk Fees"

September 30, 2024

Outline

- Background
- What Are Unfair & Excessive Fees?
- Types of Rental Junk Fees
- Bellingham Renters
- Impact to Bellingham Renters
- Ordinances Addressing Junk Fees

Background

- Councilmember Cotton has worked with the public to find ways to address junk fees in rental housing and manufactured & mobile home parks
- On August 12, 2024, the City Council requested research and legislation prohibiting junk fees

What Are Unfair & Excessive Fees?

- Often called “Junk Fees”
- Excessive
- Unnecessary
- Deceptive or misleading
- Hidden
- Used to be included in rent and are now separate
- Separate charges for nonoptional items/services

Types of Rental Junk Fees

One-time Fees

- Application Fees
- Administrative Fees
- Nonrefundable Pet Fees
- Move-In Fees
- Move-Out Fees
- “January” Fees
- Late Fees

Recurring Fees

Convenience Fees

Pest Control Fees

Valet Trash Fees

In-Unit Appliance Fees

Pet Rent

Maintenance Fees

Mail Sorting Fees

Tenant Benefit Package Fees

Bellingham Renters

- More than half of households are renters
- Over half of renter households are cost-burdened
- Manufactured and mobile home parks are 2% total housing stock, but 16% of affordable housing (Consolidated Plan)

Monthly Housing Costs as a Percentage of Household Income - Renter-Occupied – Bellingham (2017-2022 ACS)					
Household Income Ranges	Less than $20,000	$20,000 to $34,999	$35,000 to $49,999	$50,000 to $74,999	$75,000 or more
Percentage of households paying 30%+ HH Income to housing (Cost Burdened)	94%	94%	82%	51%	12%

Impact to Bellingham Renters

Local Fees – In Advertisements

- Administrative fees $100-$300
- Application fees $33-$65
- Nonrefundable pet fees $40-$500
- Pet rent $$25-$100 per month per pet
- Valet Trash $20

Anecdotes from Locals

- Manufactured Homeowner - $50/day late fees, $500 pet fees, $65 park violation fees, parking fees for guests.
- $50/month to use in-unit washer and dryer
- Multiple renters were surprised by fees, charged for services not provided, charged nonoptional benefit package fees

Ordinances Addressing Junk Fees

- Prohibit unfair fees
  - E.g. Nonrefundable pet fees, pet rent, administrative fees
- Cap/Limit excessive fees
  - E.g. Cap late fees: $10, limit fees to actual cost
- Require disclosure and transparency
  - Include fees in lease and advertisements

Unfair and Excessive Rental & Manufactured/Mobile Home Park Fees "Junk Fees"

Presented by: Iris Nott
Legislative Policy Analyst, City Council Office

360.778.8204 ienott@cob.org

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Director
Naches – 509.658.2800

Elva Simmons
Director
Yakima – 509.853.6551

Debby Stanard
Director
Yakima - 509.834.5885

September 19, 2024

Dear Bellingham City Council Members,

I am writing to forward AMHO's endorsement of the following ordinance for the City of Bellingham, WA, amending Title 6 of the Bellingham municipal code by adopting a new chapter prohibiting unfair or excessive manufactured/mobile home community fees (see below):

Chapter 6.19 - Prohibited Fees in Manufactured Home Communities as follows: BMC 6.16.010, BMC 6.16.020, BMC 6.19.030, BMC 6.19.040, BMC 6.19.050, BMC 6.19.060, BMC 6.19.070, BMC 6.19.090 and BMC 6.16.100.

Currently, excessive fees are in addition to space rent fees. I have listed the most egregious abuses below:

- Service Animal Fees (an assistance animal is not a "pet"). This fee is often charged as an additional $500 damage deposit. However, we own our own homes and personally absorb any damage to our own property!

- Late Fees: Space rent late fees can be as high as $50 per day.

- Common Area Fees: Some park owners charge their home owners "clubhouse usage fees" for meetings, etc. (in addition to their space rent fees)! I talked with a manufactured home owner this afternoon who paid $150 to rent their clubhouse, plus a $300 damage deposit, to host an AMHO "Know Your Rights" presentation, on September 26, 2024, who represents the interests of tenants in the park (see RCW 59.20.070).

- Park Rules Violations: An owner in a manufactured housing community (MHC) in Bellingham charges a $65 fee for each infraction of their rules and this junk fee is arbitrarily meted out as punishment.

- Fee for Temporary Guests: While the manufactured/mobile home landlord tenant act (RCW.59.20) states that we may have guests for a 15-day period (in any 60-day period) many landlords try to collect a parking fees from these guests.

As I stated in person at the City Council Public Hearing on September 16th, passing this ordinance is crucial to manufactured home owners living in MHC's in Bellingham who are typically living on fixed incomes, i.e., seniors, veterans, and people of color who tend to be on the low income and very low income scale.

AMHO fully endorses this ordinance!

Thank you.

Sincerely,

Anne Sadler, Director
Association of Manufactured Home Owners (AMHO)
www.wamho.org (website)
360-610-0358 (cell)

MISSION STATEMENT: The mission of AMHO is to promote, represent, protect and enhance the rights and interests of manufactured home owners in the state of Washington through Communication, Education, Negotiation, and Preservation of our Communities.

TO: Mayor Kimberley Lund
Council Members Hannah Stone, Hollie Huthman, Daniel Hammill, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist and Jace Cotton

RE: Chapter 6.19 - Prohibited Fees in Manufactured Home Communities

DATE: September 20, 2024

As someone who has been involved in the plight of manufactured home owners for more than 35 years, I am encouraged that the Bellingham City Council is giving serious consideration to enacting an ordinance that would prohibit landlords from charging a series of fees that have little or nothing to do with the well-being of the home owners or indeed the upkeep of the manufactured housing community.

I have been working with Council Member Cotton, Sebastian Miller, the AAG who deals with manufactured home owner complaints through the WA Manufactured Home Owners Alternative Dispute Resolution Program (https://www.atg.wa.gov/manufactured-housing-dispute-resolution-program), and the Association of Manufactured Home Owners (AMHO) to ensure that the proposed ordinance before you is as inclusive as possible and guarantees that manufactured home owners will no longer be prey to unscrupulous landlords.

As you know, there are ten manufactured housing communities in Bellingham and while the home owners residing in them benefit from the zoning ordinance you enacted in the recent past, they could still find themselves out on the street because their rent has been raised excessively compounded by additional fees. I used to say landlords were "nickeling and diming" people to eviction but now it is actually tens if not hundreds of dollars/month that is causing severe economic eviction and displacement.

Manufactured home owners are the most vulnerable home owners in the State. Their homes are not "mobile" and even if they were, there is no place for them to move to if they find themselves so cost burdened that they can no longer afford to live in their own homes.

While there will be increased pressure at the state level to pass a rent stabilization bill in 2025 (I hope you will do everything you can to get your counterparts in other cities to have your lobbyists put rent stabilization at the top of the "Cities" legislative priority list), there are measures you can take at the local level to also provide positive support for manufactured home owners and residential tenants in Bellingham.

The proposed ordinance is a good first step towards equity and fairness. Manufactured home owners should not have to pay administrative fees for the manager to read their water meters – that is the manager's job for which they get paid – from the rental income collected from the home owners. They should not be required to pay large pet deposits or monthly pet fees for pets that stay indoors or spend time on their lots – the home owners are already required to maintain their lots and keep their pets under control. Home owners in manufactured housing

communities should be allowed to have guests, they way you and I can have guests. They own their homes and yet they can be charged extra for having a grandchild or an aunt visit for a few weeks.

This proposed ordinance is a sensible approach to ensuring seniors, Veterans, young families and people with disabilities are able to continue to live in their own homes, in their communities of choice, surrounded by supportive neighbors and friends, without fear of eviction simply because the landlord chooses to impose unfair, unjust and unnecessary fees, that do nothing but line their pockets at the expense of low income and senior households.

Bellingham is a great city. People want to stay here. Please pass this ordinance so that they can continue to do so.

I am a retired attorney who went to law school specifically to work with and for manufactured home owners. I was the Executive Director of the National Manufactured Home Owners Association for several years. I would be happy to answer any questions you might have regarding the ordinance or any other issues related to manufactured home owners and the communities in which they reside.

Best,
Ishbel Dickens
Volunteer with AMHO
Retired attorney
206.851.6385

City Council Agenda Bill

24267

Bill Number

Subject: **Renewal of Interlocal Agreement for Inmate Housing at South Correctional Entity (SCORE)**

Summary Statement: The Bellingham Police Department would like to continue its relationship with South Correctional Entity (SCORE) for inmate housing. This contract will allow the Bellingham Police Department to transport arrestee's that will not be booked in our local jail to South Correctional Entity in Des Moines for correctional services essential to the preservation of the public health, safety, and welfare of our community.

Previous Council Action: **Approved past contracts**

Fiscal Impact: **$250,000.00**

Funding Source: **General Fund**

Attachments: 1. INTERLOCAL AGREEMENT

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	09/30/2024	Vote to Approve	Chief Rebecca Mertzig	5 minutes

Recommended Motion: Move to approve the interlocal agreement.

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Renee Firos, Admion Coordinator 360-778-8775

Council Action:

Reviewed By	Department	Date
Rebecca K. Mertzig	Police Department	09/23/2024
Andrew D. Asbjornsen	Finance	09/24/2024
Michael E. Good	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

INTERLOCAL AGREEMENT FOR INMATE HOUSING

THIS INTERLOCAL AGREEMENT FOR INMATE HOUSING (hereinafter "Agreement") is made and entered into by and between the SOUTH CORRECTIONAL ENTITY, a governmental administrative agency formed pursuant to RCW 39.34.030(3) ("SCORE") and the CITY OF Bellingham a municipal corporation organized under the laws of the State of Washington (hereinafter the "Contract Agency" together with SCORE, the "Parties" or individually a "Party").

RECITALS

WHEREAS, SCORE was formed by its Owner Cities (as defined herein) as a governmental administrative agency pursuant to RCW 39.34.030(3) to operate and maintain a consolidated correctional facility located in the city of Des Moines (the "SCORE Facility") to serve the Owner Cities, federal and state agencies and other local governments that contract with SCORE from time to time to provide correctional services essential to the preservation of the public health, safety, and welfare; and

WHEREAS, the Contract Agency desires to transfer custody of certain inmates to SCORE to be housed at the SCORE Facility; and

WHEREAS, this Agreement is entered into by and between the Parties pursuant to chapters 39.34 and 70.48 RCW, which provide for interlocal agreements for sharing of correction/detention facilities between local governments;

In consideration of the mutual covenants, conditions, and promises contained herein, the Parties hereto mutually agree as follows:

SECTION 1. DEFINITIONS.

Terms defined in the recitals of this Agreement are incorporated herein as if fully set forth in this Agreement. Capitalized terms used herein shall have the following meanings. Terms not otherwise defined herein shall have the meanings set forth in the Interlocal Agreement.

Detainer means a legal order authorizing or commanding another agency a right to take custody of a person.

Commencement Date means January 1, 2025.

Contract Agency Inmate means a person or persons subject to the Contract Agency's custody who is transferred to SCORE's custody under this Agreement.

Daily Bed Rate means the daily rate the Contract Agency is charged to occupy a general population bed, as set forth in Exhibit A.

Daily Surcharge Rates means any of the following special charges as defined in Exhibit A: Daily Surcharge Rates: Medical-Acute; Mental Health-Acute; and Mental Health-General Population.

Guaranteed Bed Rate means a reduced Daily Bed Rate - Guaranteed, as set forth in Exhibit A.

Inmate means a person or persons transferred to SCORE's custody to be housed at the SCORE Facility. The term "Inmates" includes Contract Agency Inmates.

Interlocal Agreement means the Amended and Restated SCORE Interlocal Agreement dated as of October 1, 2009 and amended and restated on December 11, 2019, as it may be further amended from time to time, executed among the parties thereto for the purpose of forming SCORE.

Mental Health - Residential Beds means Inmates clinically determined by SCORE Health Services Provider, or its successor charged with the same duties, as needing ongoing mental health care services and specialized housing in SCORE's Mental Health - Residential Unit.

Medical – Acute Beds means an Inmate clinically determined by SCORE Health Services Provider, or its successor charged with the same duties, as needing the level of medical services and housing provided in SCORE's medical clinic.

Mental Health – Acute Beds means an Inmate clinically determined by SCORE Health Services Provider, or its successor charged with the same duties, as needing the level of psychiatric services and specialized housing in SCORE's Mental Health - Acute Unit.

Owner City has the meaning set forth in the Interlocal Agreement.

Non-Guaranteed Bed Rate means a higher daily housing bed rate and subject to availability, as set forth in Exhibit A.

SCORE Facility means the correctional facility maintained and operated by SCORE located at 20817 17th Avenue South, Des Moines, WA 98198.

Termination Date means 12.31.2025.

SECTION 2. TERM.

This Agreement shall commence at 12:00 a.m. PST on the Commencement Date and terminate at 11:59 p.m. PST on the Termination Date, unless sooner terminated by either Party in accordance with this Agreement. This Agreement may be renewed for any successive period by written addendum under terms and conditions acceptable to the Parties.

SECTION 3. INMATE HOUSING AND SERVICES.

Subject to the terms of this Agreement, SCORE hereby agrees to accept Contract Agency Inmates and to provide housing, care, and custody of those Contract Agency Inmates pursuant to SCORE policies and procedures. Additional related services and associated fees, if any, to be provided to Contract Agency Inmates and/or the Contract Agency are listed in Exhibit A.

To the greatest extent permitted by law, SCORE shall have the right to refuse to accept an individual in custody of the Contract Agency or to return any Contract Agency Inmate to the Contract Agency for any reason, including but not limited to if, in the sole discretion of SCORE, such individual presents a substantial risk of escape, of injury to self or other persons or property, of adversely affecting or significantly disrupting the operations of the SCORE Facility, and/or has a medical illness or injury that makes housing such individual not in the best interest of SCORE or other Inmates as described in Exhibit D. Final acceptance of an individual based on illness or injury is determined upon approval of medical staff at the time of booking.

SECTION 4. COMPENSATION.

In consideration of SCORE's commitment to provide housing and related services for Contract Agency Inmates, the Contract Agency agrees to pay SCORE the fees and charges set forth in Exhibit A.

Such fees and charges may include, but are not limited to, booking, daily bed rate, medical and specialty, mental health, transportation, security, other charges and/or negotiated fees.

SCORE may from time to time revise the fees and charges for housing and related services under this Agreement during the term of this Agreement. SCORE shall give advance notice of any change to its fees and charges for such service in order to allow the Contract Agency sufficient time to adjust its annual budget. Unless otherwise agreed to by the Parties hereto, any new fees and charges under a new fee schedule shall become effective on January 1 of the following year.

The Contract Agency shall acknowledge receipt of the rates and charges schedule in writing and such acknowledgement shall be deemed to be an amendment to this Agreement and incorporated as if fully set forth herein without the necessity of a formal amendment or separate approval by the legislative authority of the Contract Agency or the Administrative Board of SCORE.

SECTION 5. TRANSPORTATION, BOOKING, CLASSIFICATION, DISCIPLINE AND RELEASE PROCEDURES.

A. Transportation. The Contract Agency is responsible for the transportation of Contract Agency Inmates to the SCORE Facility, including all costs associated therewith.

B. Booking. Contract Agency Inmates shall be booked pursuant to SCORE's booking policies and procedures.

C. Classification. Contract Agency Inmates shall be classified pursuant to SCORE's classification policies and procedures, and within the sole discretion and reasonable judgment of SCORE. The Contract Agency shall provide sufficient information regarding each Contract Agency Inmate as needed to allow SCORE to make such classification. Contract Agency Inmates shall be assigned to housing pursuant to SCORE's policies and procedures, and within the sole discretion and reasonable judgment of SCORE as provided in Exhibit F.

D. Inmate Discipline. SCORE shall discipline Contract Agency Inmates according to SCORE policies and procedures and in the same manner which other Inmates are disciplined; provided, however, nothing contained herein shall be construed to authorize the imposition of a type of discipline that would not be imposed on a comparable Inmate, up to and including the removal of earned early release credits as approved by the Contract Agency.

E. Release. Except for work programs or health care, if no probable cause determination is made as required by law, and during emergencies, Contract Agency Inmates shall not be removed and/or released from the SCORE Facility without written authorization from the Contract Agency or by the order of a court of competent jurisdiction. If SCORE becomes aware that there has been no probable cause determination as required by law, and the person is still in SCORE's custody, SCORE will notify the Contract Agency that the person must be released unless written proof that the probable cause determination was made is provided. Other jurisdictions may "borrow" a Contract Agency Inmate according to policies and procedures of SCORE and as listed in Exhibit G.

Contract Agency Inmates will be transported at the time of release as follows: SCORE will release each Contract Agency Inmates to the Contract Agency at a mutually agreeable location. Alternatively, SCORE will provide transportation upon release to either the closest Owner City of arrest, or the Owner City of residence, whichever is closer, unless confirmed transportation is available at the time of release. Additional fees, if any, for transportation outside of King County are included in Exhibit A.

Contract Agency Inmates for whom bail is posted, or who otherwise have a right to be released, may choose to remain in custody at the SCORE Facility by signing written waiver and return to the Contract Agency by the regularly scheduled transport, be released to a family Owner or friend with confirmed transportation, or be released via private taxi.

SECTION 6. INMATE MEDICAL RECORDS, CLOTHING, BEDDING, PROPERTY AND WORK PROGAMS.

A. Inmate Medical Records. Should a Contract Agency Inmate receive medical care for injuries or illness at the time of arrest and prior to booking at the SCORE Facility, the Contract Agency shall provide medical documentation pertaining to injury or illness to SCORE at the time of booking if the Contract Agency has access to such records. If the Contract Agency cannot provide such records, SCORE, in its sole discretion, may refuse to accept a Contract Agency Inmate.

B. Inmate Property. SCORE agrees to provide each Contract Agency Inmate with necessary or appropriate clothing and essential hygiene items. SCORE shall accept, hold, and handle, and return any Contract Agency Inmate property in accordance with SCORE's policies and procedures, and shall be responsible only for Contract Agency Inmate property actually delivered into SCORE's possession. In the event a Contract Agency Inmate is being transported from a Contract Agency designated detention or correction facility, it will be the responsibility of the Contract Agency to process the Contract Agency Inmate's property not delivered and accepted into SCORE's possession as provided in Exhibit E.

C. Work Programs. SCORE may assign Contract Agency Inmates to work programs such as inside and outside work crews, kitchen and facility duties, and other appropriate duties pursuant to SCORE's policies and procedures and within the sole discretion and judgment of SCORE.

D. Visitation. SCORE shall provide reasonable scheduled visitation for Contract Agency Inmates. Inmate visitation may be accessible via video connection by third party provider at off-site locations for an access fee. Complimentary video visit access is available at the SCORE Facility. Confidential telephones or visitation rooms shall be available to a Contract Agency Inmate to communicate with his or her legal counsel.

E. Inmate Accounts. SCORE shall establish and maintain a non-interest-bearing account for each Contract Agency Inmate. Upon returning custody of a Contract Agency Inmate to the Contract Agency, SCORE shall transfer the balance of that Contract Agency Inmate's account that is not subject to charges, to the Contract Agency Inmate or to the Contract Agency in the form of cash, check, debit card or other agreed upon method in the name of the Contract Agency Inmate.

SECTION 7. HEALTH CARE.

SCORE shall provide in-facility medical care commonly associated with corrections operations as guided by American Correctional Association (ACA) or National Commission on Correctional Health Care (NCCHC).

In-facility medical, dental, and mental health services are included in the daily rate set forth in Exhibit A. Should a Contract Agency Inmate require medical, mental health, dental, and/or other medical services at an outside medical or health care facility, SCORE shall notify the Contract Agency's designee (either by written or electronic means) within a reasonable time period before the Contract Agency Inmate receives such medical, mental health, dental or any other medical services. Notwithstanding the foregoing, the Contract Agency acknowledges that such notice may not be reasonably possible prior to emergency care.

The Contract Agency shall pay for all medical, mental health, dental or any other medical services or equipment that are required to care for Contract Agency Inmates outside of the SCORE Facility in addition to the charges listed in Exhibit A. Lack of prior notice shall not excuse the Contract Agency from financial responsibility for such expenses and shall not be a basis for imposing financial responsibility for related medical expenses on SCORE. SCORE shall bear the expense of any such medical care necessitated by improper conduct of SCORE, or of its officers or agents.

If a Contract Agency Inmate is admitted to a hospital, the Contracting Agency will be responsible for hospital security unless other arrangements are made with SCORE. SCORE, in its sole discretion, may, or at the request of the Contract Agency shall, provide hospital security services for an additional charge as provided in Exhibit A.

SECTION 8. DETAINERS.

Warrants and Contract Agency Inmates in a "Detainer" status shall be handled according to SCORE policies and procedures and as provided in Exhibit B attached hereto.

SECTION 9. RELEASE OF HOLDS AND COURT APPEARANCES.

If a court of limited jurisdiction releases a hold on a Contract Agency Inmate still incarcerated at the SCORE Facility, SCORE will not facilitate further court appearances of that Contract Agency Inmate except if the Contract Agency wishes to use the video arraignment system at the SCORE Facility.

SECTION 10. ESCAPE; DEATH.

If a Contract Agency Inmate escapes SCORE's custody, SCORE shall notify the Contract Agency as soon as reasonably possible. SCORE shall use all reasonable efforts to pursue and regain custody of escaped Contract Agency Inmates.

If a Contract Agency Inmate dies while in SCORE custody, SCORE shall notify the Contract Agency as soon as reasonably possible. The King County Medical Examiner shall assume custody of the Contract Agency Inmate's body. Unless another agency becomes responsible for investigation, one or more Owner City shall investigate and shall provide the Contract Agency with a report of its investigation. The Contract Agency may participate in the investigation. If another agency becomes responsible for investigation, SCORE shall serve as a liaison or otherwise facilitate the Contract Agency's communication with and receipt of reports from the other agency.

The Contract Agency shall provide SCORE with written instructions regarding the disposition of the Contract Agency Inmate's body. The Contract Agency shall pay for all reasonable expenses for the preparation and shipment of the body. The Contract Agency may request in writing that SCORE arrange for burial and all matters related or incidental thereto and the Contract Agency shall be responsible for all costs associated with this request.

SECTION 11. REPORTING AND INSPECTION.

SCORE agrees to use reasonable efforts to work with the Contract Agency to provide access to and/or reports from jail management systems that provide statistical information about Inmates. The Contract Agency shall have the right, upon reasonable advance notice, to inspect the SCORE Facility at reasonable times. During such inspections, the Contract Agency may interview Contract Agency Inmates and review Contract Agency Inmates' records. The Contract Agency shall have no right to interview Inmates housed for other jurisdictions or to review their records unless Contract Agency is properly authorized to do so by the Inmate or the other jurisdiction.

SECTION 12. TECHNOLOGY.

SCORE and the Contract Agency may each permit the other continuous access to its computer database regarding all Contract Agency Inmates housed by SCORE. This continuous access feature may be accomplished through a computer link between a computer(s) designated by the Contract Agency and appropriate computer(s) of SCORE.

SECTION 13. BILLING AND PAYMENT.

SCORE shall provide the Contract Agency with monthly statements itemizing the name of each Contract Agency Inmate; the number of days of housing, including the date and time booked into the SCORE Facility and date and time released from SCORE; and itemization of any additional charges including a description of the service provided, date provided and reason for service. Payment shall be due to SCORE within 30 days from the date the bill is received. SCORE may bill the Contract Agency electronically. Payments not received by the 30th day shall bear interest at the rate of 1% per month until payment is received. Any fees or charges for Inmates housed on charges from multiple agencies (including but not limited to outside medical care) will be divided equally among those agencies.

SECTION 14. BILLING DISPUTE RESOLUTION.

The Contract Agency must provide written notice of dispute to SCORE within 60 days of billing or other disputed charges. SCORE shall respond in writing to such disputes within 60 days of receipt of such disputes. SCORE and the Contract Agency shall attempt to resolve the dispute by negotiation. If such negotiation is unsuccessful, either Party may refer the dispute to the SCORE Operations Board for resolution. The decision of the SCORE Operations Board is the final internal administrative remedy the Contract Agency must exhaust before pursuing other contractual, legal, equitable, or alternative dispute resolutions.

SECTION 15. INDEPENDENT CONTRACTOR.

In providing services under this Agreement, SCORE is an independent contractor and neither it nor its officers, nor its agents nor its employees are employees of the Contract Agency for any purpose, including responsibility for any federal or state tax, industrial insurance, or Social Security liability. Neither shall the provision of services under this Agreement give rise to any claim of career service or civil service rights, which may accrue to an employee of the Contract Agency under any applicable law, rule or regulation. Nothing in this Agreement is intended to create an interest in or give a benefit to third persons not signing as a Party to this Agreement.

SECTION 16. HOLD HARMLESS, DEFENSE, AND INDEMNIFICATION.

SCORE shall hold harmless, defend, and indemnify the Contract Agency, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, alleged violation of civil rights, injury, or death of any Contract Agency Inmate, or loss or damage to Contract Agency Inmate property while in SCORE custody) that result from or arise out of the acts or omissions of SCORE, its elected officials, officers, employees, and agents in connection with or incidental to the performance or non-performance of SCORE's services, duties, and obligations under this Agreement.

The Contract Agency shall hold harmless, defend, and indemnify SCORE, its elected officials, officers, employees, and agents from and against any and all suits, actions, claims, liability, damages, judgments, costs and expenses (including reasonable attorney's fees) (also including but not limited to claims related to false arrest or detention, alleged mistreatment, alleged violation of civil rights (unless the Contract Agency has affirmatively notified SCORE in writing that a probable cause determination has been made within 48 hours of the arrest of the person bringing the claim), injury,

or death of any Contract Agency Inmate, or loss or damage to Contract Agency Inmate property while in SCORE custody) that result from or arise out of the acts or omissions of the Contract Agency, its elected officials, officers, employees, and agents in connection with or incidental to the performance or non-performance of the Contract Agency's services, duties, and obligations under this Agreement.

In the event the acts or omissions of the officials, officers, agents, and/or employees of both the Contract Agency and SCORE in connection with or incidental to the performance or non-performance of the Contract Agency's and or SCORE's services, duties, and obligations under this Agreement are the subject of any liability claims by a third party, the Contract Agency and SCORE shall each be liable for its proportionate concurrent negligence in any resulting suits, actions, claims, liability, damages, judgments, costs and expenses and for their own attorney's fees.

Nothing contained in this section, or this Agreement shall be construed to create a right in any third party to indemnification or defense.

SCORE and the Contract Agency hereby waive, as to each other only, their immunity from suit under industrial insurance, Title 51 RCW. This waiver of immunity was mutually negotiated by the Parties hereto.

The provisions of this section shall survive any termination or expiration of this Agreement.

SECTION 17. INSURANCE.

SCORE and the Contract Agency shall provide each other with evidence of insurance coverage, in the form of a certificate or other competent evidence from an insurance provider, insurance pool, or of self-insurance sufficient to satisfy the obligations set forth in this Agreement.

SCORE and the Contract Agency shall each maintain throughout the term of this Agreement coverage in minimum liability limits of one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in the aggregate for its liability exposures, including comprehensive general liability, errors and omissions, auto liability and police professional liability. The insurance policies shall provide coverage on an occurrence basis.

Each Party shall provide to the other Party at least 30 days advance notice of any cancellation, suspension, or material change in coverage.

SECTION 18. TERMINATION.

Either Party may terminate this Agreement, with or without cause, by providing the other Party with 90 days written notice of termination as provided in RCW 70.48.090.

SECTION 19. RECORDS.

The Parties hereto shall maintain all records, reports, and documents created, held or maintained under this Agreement and the services to be provided hereunder in accordance with chapter 42.56 RCW (the Washington Public Records Act), chapter 40.14 RCW (Preservation and Destruction of Public Records) and all other applicable federal, state and local laws and regulations.

SECTION 20. OPERATION OF SCORE FACILITY; PRISON RAPE ELIMINATION ACT.

SCORE shall manage, maintain, and operate the SCORE Facility in compliance with all applicable federal, state, and local laws and regulations. SCORE acknowledges and complies with the terms of the Prison Rape Elimination Act regarding custodial sexual misconduct as set forth in Exhibit C.

SECTION 21. HIPAA AND HITECH COMPLIANCE.

The Parties shall comply with all requirements of the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Health Information and Technology for Economic and Clinical Health Act (HITECH Act) as applicable, which relate to the Parties' responsibilities under this Agreement, as well as state laws and regulations including chapter 70.02 RCW.

SECTION 22. EQUAL OPPORTUNITY.

Neither Party shall discriminate against any person on the grounds of race, creed, color, religion, national origin, sex, age, marital status, sexual orientation, veterans and military status, political affiliation or belief or the presence of any sensory, mental, or physical handicap in violation of any applicable federal law, Washington State Law Against Discrimination (chapter 49.60 RCW) or the Americans with Disabilities Act (42 USC 12110 *et seq.*).

SECTION 23. MISCELLANEOUS.

A. Real or Personal Property. It is not anticipated that any real or personal property will be acquired or purchased by the Parties solely because of this Agreement.

B. Assignment. This Agreement, or any interest herein, or claim hereunder, shall not be assigned, or transferred in whole or in part by a Party to any other person or entity without the prior written consent of the other Party. In the event that such prior written consent to an assignment is granted, then the assignee shall assume all duties, obligations, and liabilities of the assigning Party stated herein.

C. Non-Waiver. The failure of either Party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

D. Severability. If this Agreement, or any portion of this Agreement, is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

E. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. If any dispute arises between the Parties under any of the provisions of this Agreement, resolution of that dispute shall be available only through the jurisdiction, venue and rules of the King County Superior Court, King County, Washington.

F. Attorneys' Fees. In any claim or lawsuit for damages arising from the Parties' performance of this Agreement, each Party shall be responsible for payment of its own legal costs and attorney's fees incurred in defending or bringing such claim or lawsuit; however, nothing in this subsection shall limit each Parties' right to indemnification under this Agreement.

G. Approval and Filing. Each Party shall approve this Agreement by resolution, ordinance, motion or otherwise pursuant to the laws of the governing body of each Party. The signatures of the authorized signatories below shall constitute a presumption that such approval was properly obtained. A copy of this Agreement shall be filed and/or posted pursuant to chapter 39.34 RCW.

H. Amendment. Except as otherwise provided in Section 4 of this Agreement, no waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless evidenced in writing signed by duly authorized representatives of both Parties.

I. No Joint Venture or Partnership. No joint venture, separate administrative or governmental entity, or partnership is formed as a result of this Agreement.

J. Compliance with Applicable Laws and Standards. SCORE agrees to manage the Contract Agency Inmates and the SCORE Facility in accordance with applicable federal and state laws and regulations and to maintain staffing levels at the SCORE Facility in sufficient numbers and rank to maintain the safety of the public, staff, Inmates, and to reasonably carry out the provisions of this Agreement.

K. Continuation of Performance. In the event that any dispute or conflict arises between the Parties while this Agreement is in effect, the Parties hereto agree that, notwithstanding such dispute or conflict, they shall continue to make a good faith effort to cooperate and continue work toward successful completion of assigned duties and responsibilities. Provided that if the Contract Agency fails to pay for the services provided by the SCORE, SCORE can cease providing such services until payment is made.

L. Representatives; Notices. The individuals listed below the signature blocks included in this Agreement are designated as representatives of the respective Parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the Party making the change shall notify the other Party. Any notice or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent electronically or by certified or registered mail, return receipt requested, addressed as provided after the signature blocks included in this Agreement, or to such other address as may be designated by the addressee by written notice to the other Party.

M. Entire Agreement. This Agreement, together with any subsequent amendments, constitutes the entire Agreement between the Parties and supersedes all prior agreements for inmate housing between the Parties.

SECTION 24. EXECUTION.

This Agreement shall be executed by the Parties hereto by their duly authorized representative. This Agreement may be executed in one or more counterparts.

THIS AGREEMENT is hereby effective as of the Commencement Date.

SOUTH CORRECTIONAL ENTITY

Signature

Title/Name Executive Director Devon Schrum

NOTICE ADDRESS:

SOUTH CORRECTIONAL ENTITY
20817 17th Avenue South
Des Moines, WA 98198
Attention: Devon Schrum

Email: dschrum@scorejail.org
Telephone: 206-257-6262

Signature

Title/Name: Chief Rebecca Mertzig

NOTICE ADDRESS:

Exhibit A

FEES AND CHARGES AND SERVICES

Booking Fee:[1]	$80.00	
Daily Housing Rates:		
General Population – Guaranteed Beds	$148.28	No. of Beds: _____
General Population – Non-Guaranteed Beds	$213.17	
Daily Rate Surcharges:[2]		
Mental Health – Residential Beds	$170.32	
Medical - Acute Beds	$232.45	
Mental Health – Acute Beds	$297.79	
Health Care Services:[3]		
In-Facility Care	Included	
Outside Medical Services	Contract Agency billed	
Emergency Care	Contract Agency billed	
Pharmaceuticals	Medications billed to Contract Agency	
Transportation Fees:		
SCORE Officer Transport	$89.00/per hour	
Security Services:		
Hospital Security	$89.00/per hour	
Video Court:		
In-Custody Arraignment	Included	

Other Terms & Conditions:

Fees, charges, and services will be annually adjusted each January 1st.

[1] The Booking Fee will be charged to the jurisdiction responsible for housing the inmate
[2] Surcharges are in addition to daily housing rates and subject to bed availability
[3] Guided by American Correctional Association (ACA) and/or National Commission on Correctional Health Care (NCCHC)

Exhibit B

WARRANTS/OTHER COURT ORDERS/DETAINERS

The following shall apply to Contract Agency Inmates who are subject to warrants from other jurisdictions or to other court orders for confinement or detainers:

1. When receiving a Contract Agency Inmate, the booking officers at SCORE shall review all paperwork provided by the Contract Agency for all grounds to hold the Contract Agency Inmate.

2. Prior to releasing a Contract Agency Inmate, SCORE shall check the NCIC and WACIC systems to determine if the Contract Agency Inmate is subject to any valid warrants or other detainers.

    a) If the Contract Agency Inmate is subject to a warrant that is limited to King County, SCORE will, upon receiving written permission (e-mail) from the Contract Agency, transport the Inmate to the custodial agency for the jurisdiction that issued the warrant. However, SCORE will not assume responsibility to serve any such warrants.

    b) If the Contract Agency Inmate is subject to a warrant from a western Washington jurisdiction outside King County, SCORE will either process the Inmate for transfer on the Cooperative Transport Chain or provide transfer to a jurisdiction that participates in Cooperative Transport Chain.

    c) If the Contract Agency Inmate is subject to a warrant from an eastern Washington jurisdiction, SCORE will send the Inmate to a jurisdiction that participates in the Cooperative Transport Chain.

    d) If, upon return from SCORE to the Contract Agency, the Inmate is subject to a warrant that provides for statewide extradition, SCORE will either transport the Inmate to the detention/correction facility in King County designated by the agency/jurisdiction that issued the warrant if it is in King County or will send the Inmate to the agency/jurisdiction that issued the warrant on the Mini- Chain.

Exhibit C

PREA ACKNOWLEDGMENT - CUSTODIAL AND SEXUAL MISCONDUCT

1. Compliance
SCORE agrees to ensure that all of its employees, contractors, vendors, and volunteers that have contact with Contract Agency Inmates comply with all federal and state laws regarding sexual misconduct including, but not limited to:

   a) The Prison Rape Elimination Act of 2003 (PREA)

   b) The standards for adult Prisons and Jails or Community Confinement Facilities, whichever is applicable, as promulgated by the US Attorney, and

   c) Zero tolerance toward all forms of sexual abuse and sexual harassment.

2. Monitoring
SCORE agrees to provide the Contract Agency documented compliance with the Federal Prison Rape Elimination Act standards. Monitoring may include, but is not limited to:

   a) Site visits,

   b) Access to facility data, and

   c) Review of applicable documentation.

3. Contract Agency may terminate this Agreement

   a) Should SCORE fail to provide documentation that demonstrates that the SCORE is actively and effectively working toward and is making substantive progress toward achieving compliance; or

   b) Should SCORE fail to maintain PREA compliance between auditing periods, after being given a reasonable opportunity to cure.

4. The Contract Agency will terminate this Agreement

   a) Should SCORE elect to discontinue pursuit of PREA compliance;

   b) Should SCORE be found in noncompliance through a PREA Audit and fail to cure such noncompliance within the identified timeframes; or

   c) Should SCORE be found to be in egregious violation of PREA.

Exhibit D

MEDICAL ACCEPTABILITY

SCORE shall determine the medical and mental acceptability of Inmates for booking or housing using the following guidelines. However, final acceptance is based upon approval of medical staff at the time of booking. Excluding criteria include but are not limited to:

1. Signs of untreated broken bones or dislocated joints.
2. Any injury or illness requiring emergency medical treatment.
3. Unconsciousness.
4. Inmates unable to stand and walk under their own power, unless they normally use an assistive device, such as a wheelchair, for mobility.
5. Bed bound individuals.
6. Individuals with attached IV or requiring IV medications.
7. Individuals requiring the use of oxygen tanks.
8. AMA (Against Medical Advice) from the hospital.
9. Individuals having had major invasive surgery within the last 72 hours. Non-invasive surgery such as oral surgery, laser-eye surgery and minor surgery may be evaluated on a case-by-case basis.
10. Wounds with drainage tubes attached.
11. Persons with Alzheimer's, dementia, or other psychological conditions to the point where the Inmate cannot perform activities of daily living ("ADL's") or who do not have the capacity to function safely within a correctional environment.
12. Persons who are diagnosed as developmentally delayed and who do not have the capacity to function safely within a correctional environment or who cannot perform ADL's.
13. Persons undergoing chemotherapy and/or radiation treatment.
14. Persons undergoing dialysis.
15. Persons with suicidal ideations or gestures within the past 72 hours.
16. Persons, if prescribed, who have not taken psychotropic medications for at least 72 hours.
17. Persons who have by self-disclosure, admitted to attempting suicide within the last 30 days.
18. Persons who have attempted suicide during their current incarceration.
19. Persons displaying current psychotic episode.

Exhibit E

PROPERTY

1. SCORE will *not accept or transport* the following:
   a) Backpacks, suitcases, etc.
   b) Unpackaged food products.
   c) Food products in packaging that have been opened.
   d) Any type of weapon (includes pocket knives).
   e) Liquids.
   f) Helmets or any kind.
   g) Large items that will not fit into a common paper grocery bag.
   h) Material deemed to be contraband.

SCORE will limit property returned with the Inmate to the Contract Agency according to these criteria.

Exhibit F

CLASSIFICATION

SCORE maintains a classification plan to guide staff in the processing of individuals brought into the facility. The plan includes an initial screening process, as well as a process for determining appropriate housing assignments (28 CFR 115.42) and uses an objective screening instrument and procedures for making decisions about classification and housing assignments. The plan includes, and not limited to, an evaluation of the following criteria:

1. Behavior during arrest and intake process
2. Potential risk of safety to others or self
3. Medical needs
4. The inmate's own perception of his/her vulnerability
5. Any other criteria as deemed appropriate by the Executive Director or designee

The Contract Agency shall supply SCORE with the following Classification related information, if known to or in possession of the Contract Agency:

1. If the Contract Agency Inmate has been classified to a special housing unit.
2. If the Contract Agency Inmate has been classified as protective custody.
3. If the Contract Agency Inmate:
    a) Is a violent offender or has displayed violent behavior during present or past incarcerations
    b) Is identified as a threat to law enforcement
    c) Is an escape risk

Exhibit G

BORROWING

One contracting agency may "borrow" another Contract Agency's Inmate as follows:

1. If a Contract Agency requests the transport of another contracting agency's Inmate from SCORE the requesting agency must notify each agency with rights to custody of the Inmate, and if each agency with rights to custody of the Inmate notifies SCORE in writing (e-mail) of its approval, SCORE shall provide the requested transport to the requesting agency. SCORE will complete a custody transfer form that lists all outstanding detainers. The custody transfer paperwork will accompany the Inmate.

2. Once custody of the Inmate has been transferred to the requesting agency, it is the responsibility of the requesting agency to determine whether the Inmate shall be returned to the custody of SCORE, and if so, the requesting agency shall make all necessary and proper arrangements with SCORE and any agency with rights to custody of the Inmate, for the Inmate's return according to the terms of this Agreement. The requesting agency, to the full extent permitted by law, defend, indemnify, save and hold harmless SCORE as provided in Section 16 of the Agreement.

3. SCORE will not track the Inmate once he or she has left the SCORE Facility.

4. If the Inmate is returned to the custody of SCORE, the requesting agency shall provide SCORE with sentencing/charge information. The requesting agency shall supply all pre-sentence, and post-sentence paperwork from agreeing agencies that authorized the borrowing of the Inmate. This will aid SCORE in determining split billing and release dates.

5. SCORE will transport the Inmate only to an agency that also contracts with SCORE for Inmate housing.

CITY OF BELLINGHAM:

Dated this _____ day of _____, 2024.

_____
Mayor

ATTEST: _____
Finance Department

APPROVED AS TO FORM:

_____
Office of the City Attorney

DEPARTMENTAL APPROVAL:

_____
Chief of Police or Designee

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

City Council Agenda Bill

24255

Bill Number

Subject: **Multi-Family Tax Exemption (MFTE) Program Evaluation**

Summary Statement: The City has been evaluating the current Multi-Family Tax Exemption (MFTE) program in an effort to help balance the City's goals for targeted housing development and affordable housing production, with the goal of better understanding the challenges and constraints in the local housing market and overall economic conditions. City staff is considering several modifications to the MFTE program and is requesting policy direction from the City Council before completing additional analysis and drafting code revisions.

Previous Council Action: **1999 Adoption of the MFTE Program; 2008, 2010, 2015 MFTE Boundary Revisions**

Fiscal Impact: **Staff time to conduct additional analysis and draft code revisions**

Funding Source: **General Fund**

Attachments:
1. STAFF MEMO
2. 2024 MFTE EVALUATION REPORT
3. PRESENTATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Direction Requested	09/30/2024	Provide Direction	Blake Lyon, Planning and Community Development Director	30 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Blake Lyon, Planning and Community Development Department, 360-778-8308

Reviewed By	Department	Date
Blake G. Lyon	Planning & Community Development	09/19/2024
Amy B. Kraham	Legal	09/19/2024
Kimberley J. Lund	Executive	09/24/2024

Council Action:

City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL

FROM: BLAKE LYON, PLANNING & COMMUNITY DEVELOPMENT DIRECTOR

CC: MAYOR KIM LUND

TARA SUNDIN, COMMUNITY & ECONOMIC DEVELOPMENT MANAGER

SUBJECT: MULTI-FAMILY TAX EXEMPTION (MFTE) PROGRAM EVALUATION

DATE: SEPTEMBER 30, 2024

Background: The City of Bellingham ("the City") offers MFTE incentives for targeted residential areas (BMC 17.82). The program was first adopted in 1999 as a way to spur residential development in Downtown Bellingham after decades of slow multifamily housing development. In 2008, the boundary was expanded to include Old Town. The program was expanded again in 2010 and 2015 to include four additional urban villages: Samish Way, Fountain District, Fairhaven, and Barkley Village for a total of five eligible mixed-use urban villages. The City offers an 8-year tax exemption for the construction of market rate multi-family units with no additional requirements and a 12-year tax exemption for multi-family units contingent on developers setting aside 20% of units as affordable to households earning 60% of the area median income (AMI). The 12-year option is available in all targeted residential areas while the 8-year option is available in all but Fairhaven and Barkley Village. It is important to note that the City's 12-year program is more restrictive, at 60% AMI, than what the State requires under RCW 84.14, at 80% to 115% AMI.

Under the current program, the 8-year exemption has incentivized nearly 1,400 residential units in Downtown, Old Town, Samish Way and Fountain district urban villages. Another 400+ are in a pending state. To date, no units have been produced using the 12-year exemption indicating that it is not an effective development incentive as codified.

Program Evaluation: Earlier this year, Sustainable Connections received grant funds from the Washington State Department of Commerce to evaluate the City's MFTE program and help balance the City's goals of targeted housing development and affordable housing production under local housing market conditions. Sustainable Connections hired ECOnorthwest to undertake the evaluation and both organizations worked closely with city staff.

The City of Bellingham Multifamily Tax Exemption Program Evaluation report is attached. The Executive Summary includes Background, Key Findings and Recommendations.

> ***A Key Finding:*** *"Under current market conditions, multi-family housing development within the City of Bellingham is not currently feasible, even with the incentive of the 8-year*

program or a 12-year program with a higher affordability threshold. Major barriers to development include the cost of borrowing, challenges obtaining financing, and construction cost increases." ECOnorthwest July 2024

Staff Recommendation: Please see pages 2-3 for a summary of the consultants' Short and Longer-Term Recommendations. We understand the recommendations are presented this way primarily because this report was written when the market is not supporting new construction. Changing the Bellingham Municipal Code takes time and resources and is not always conducive to responding to market forces. For this reason, we are seeking City Council direction to update the code with the assumption that the cost of construction, whether due to interest rates and carrying costs, or the actual cost of construction, will likely go down.

Staff recommend advancing several recommendations as soon as possible through an update to the MFTE program:

- To continue to direct development to our urban villages, staff recommend the **continuation of the 8-year MFTE** program in place in Downtown, Old Town, Fountain and Samish Way.
- To produce more housing city-wide and to promote affordable housing be incorporated into market rate housing, staff recommends changes to the 12-year MFTE Program:
    - Change the City's 12-year MFTE program AMI requirements. Staff needs to rely on additional analysis that it plans to undertake internally before making a recommendation on AMI. It will be higher than the 60% required today.
    - Dramatically expand the residential target areas where the MFTE program can be used across the city (or consider allowing it in certain zones or plan areas).
- To minimize displacement risk and impacts to existing tenants, staff recommends additional changes to the 12-year MFTE program (i.e., longer notice provided to current tenants or relocation assistance and revisions to the one year vacancy requirement for redevelopment projects).
- To preserve affordability in multi-family development projects that have taken advantage of either MFTE options, adopt the State's allowance for a 12-Year MFTE extension using the threshold of 20% of the units at 80% AMI.

While not part of ECOnorthwest's scope, staff recommends we consider adopting the State's allowance for a 20-Year MFTE program where the program can be used in the city. While the current program needs policy clarifications to support feasible implementation, we anticipate that

the State legislature may be working towards amending the requirements to make it a viable incentive. It currently requires a homeownership model with a 99-year affordability period. It is also worth considering for adoption to ensure it is available for use if and when market conditions improve.

ECOnorthwest has identified that lowering the minimum parking requirements is a tool that can be used to help further support the creation of multi-family housing development. As such, they recommend reducing or eliminating parking regulations in Residential Multi zones and/or Urban Villages. This recommendation is consistent with the policy direction provided by Council to evaluate and analyze parking reforms in Urban Villages and along transit corridors, as well as city wide.

Sustainable Connections, ECOnorthwest and staff will provide an overview of the how MFTE works, the program evaluation and recommendations. We are seeking City Council direction on the staff recommendation.

July 2024

City of Bellingham Multifamily Tax Exemption Program Evaluation

City of Bellingham

Prepared for: Sustainable Connections/Whatcom Housing Alliance

ECOnorthwest
1200 6th Avenue, Seattle, WA 98101• 206-823-3060

Acknowledgments

ECOnorthwest prepared this report with the guidance and input of several partners, including members, staff, stakeholders, and leadership of Sustainable Connections/Whatcom Housing Alliance and the City of Bellingham. This work was financially supported by the Washington State Department of Commerce.

For more information about this report please contact:

Cadence Petros, Project Director
ECOnorthwest
petros@econw.com
503-200-5079

KEY SUSTAINABLE CONNECTIONS AND CITY OF BELLINGHAM STAFF

1. Rose Lathrop, Program and Finance Director, Whatcom Housing Alliance/Sustainable Connections
2. Scott Pelton, Manager, Whatcom Housing Alliance/Sustainable Connections
3. Tara Sundin, Community & Economic Development Manager, City of Bellingham
4. Elizabeth Erickson, Senior Planner, City of Bellingham
5. Chris Koch, Planner II, City of Bellingham

ECONORTHWEST CONSULTANT TEAM

1. Cadence Petros, Project Director
2. Jennifer Cannon, Senior Project Manager
3. Mackenzie Visser, Associate

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1. Executive Summary

Background

Sustainable Connections contracted ECOnorthwest (ECO) to evaluate potential changes and expansions to the City of Bellingham's existing Multifamily Tax Exemption (MFTE) Program. The Washington State MFTE program allows a local jurisdiction to incentivize diverse housing options in urban centers by providing property tax exemptions for developers. MFTE programs vary in their structure of incentives (such as the length of a property tax exemption ranging from 8, 12, to 20 years), requirements (e.g., the percent of units that are set aside for low- to moderate-income housing), and in where they are applied. Requirements can vary since local jurisdictions can modify program requirements or incentives as long as the program meets the minimum state requirements.[1]

The City of Bellingham ("the City") offers MFTE tax exemption incentives for targeted residential areas (BMC 17.82). The program was first adopted in 1999 as a way to spur residential development in Downtown Bellingham after a decade of slow multifamily housing development. The program was expanded in 2010 and 2015 to include four additional urban villages: Samish Way, Fountain District, Fairhaven, and Barkley Village for a total of five mixed-use urban villages are eligible. The City offers both an 8-year exemption with no additional requirements and a 12-year exemption contingent on developers setting aside 20% of units as affordable to households earning 60% of the area median income (AMI). The affordability required by the City exceeds the minimum thresholds established in state law, which requires 20% of the units to be affordable to households earning between 80-115% AMI.

ECO evaluated different MFTE Program scenarios s to inform potential program modifications to best meet the needs of the City and support feasible implementation. This report outlines the different MFTE Program options evaluated, the proposed areas that could be eligible for the program, the analytical approach, the findings from the analysis, and the concluding recommendations.

Key Findings

Main findings from the feasibility analysis that inform our recommendations are as follows.

- Under current market conditions, multi-family housing development within the City of Bellingham is not currently feasible, even with the incentive of the 8-year program or a 12-year program with a higher affordability threshold. Major barriers to development include the cost of borrowing, challenges obtaining financing, and construction cost increases.

[1] State of Washington Chapter 84.14 RCW outlines the existing requirements for implementing a MFTE program (first codified in 1995, updated recently in 2021, MFTE program background). Only projects with 4 or more units are eligible and only property owners who commit to renting or selling at least 20% of the units to low- and moderate-income households are eligible for the 12-year exemption.

- Under both current and improved market conditions, the City's existing 12-year Multi-Family Property Tax Exemption Program decreases development feasibility most of the scenarios tested.
- Under improved market conditions, market-rate development will likely be feasible, especially in higher-rent neighborhoods. The 8-year MFTE program may not be necessary to make development feasible.
- Changing the 12-year program affordability from 20% of the units affordable to households earning 60% AMI to be affordable to households earning 100% or 115% AMI generally improves development feasibility for higher-density prototypes but does not provide enough incentive to outcompete the 8-year MFTE program.
- Lowering the minimum parking requirements and increasing the area that development can cover on a lot also increases development feasibility.

Recommendations

We divided our recommendations into two categories: short-term recommendations that address current development challenges and prepare for market recovery and longer-term recommendations to consider implementing as the market improves.

Short-Term Recommendations

Our short-term recommendations aim to help the City support any potential development that may be viable under current market conditions and prepare for future market improvement.

- **Keep the 8-year MFTE program in existing locations,** as it may help some projects become feasible during a period where no housing would likely be built otherwise.
- **Consider reducing parking minimums in Residential Multi (RM) zones** to match the standards found in its Urban villages or even eliminating parking requirements entirely.
- Since parking reductions increase feasibility, in part, by reducing a project's required lot size, **we also recommend that the City increase its minimum lot coverage requirements in the RM zones.**
- **Consider providing administrative support for the 12-year MFTE program** to assist developers or property management companies with tenant screening, leasing, program compliance monitoring, and any required documentation.

Longer-Term Recommendations

The goal for the long-term recommendations is to give the City flexibility to determine how an MFTE program can be recalibrated most effectively to support various housing goals and needs. Based on the findings, the following options for recommendations are provided to help advance the three goals outlined below.

Increase housing development broadly:

- Keep the 8-year MFTE program in place.
- Change the 12-year MFTE program to the minimum state standards (20% of units at 115% AMI).
- Expand the residential target areas where the MFTE program can be used across the city (consider allowing it in certain zones or plan areas).

Direct development to certain neighborhoods while increasing mixed income housing development:

- Keep the 8-year MFTE program in place.
- Change the 12-year MFTE program to minimum state standards (20% of units at 115% AMI).
- Offer the programs only in neighborhoods where the City would like to direct development growth.

Promote affordable development:

- Revise the 8-year MFTE program as development conditions improve to provide for affordable unit development.
- Consider a two-tiered 12-year MFTE program, with the affordability threshold set to 115% AMI in higher-rent areas and 100% AMI in lower-rent areas.
- Expand the residential target areas where the MFTE program can be used but consider ways to avoid the displacement of affordable housing (e.g., naturally occurring affordable housing).

Other long-term program considerations and recommendations include:

- **Offer the 12-year extension beyond the currently allowed tax exemption term,** as it will not negatively impact development feasibility and could be an incentive for certain projects.
- **Monitor and consider recalibrating the MFTE program regularly**. We suggest completing additional program evaluation and feasibility analyses every 3 to 5 years to enhance program performance and test ways to adjust and recalibrate the MFTE program under changing market conditions.
- **Implementing anti-displacement measures.** While the 12-year MFTE program incentivizes the production of affordable housing units, the City should also take steps to preserve its existing, unsubsidized, naturally occurring affordable housing.

2. Project Background

Background

The Whatcom Housing Alliance contracted ECOnorthwest (ECO) to evaluate potential Multifamily Tax Exemption (MFTE) Program update options for the City of Bellingham, Washington. This analysis will help the Whatcom Housing Alliance and the City of Bellingham understand how changes to its current MFTE program could encourage private-sector development for both market-rate and affordable units. The City aims to use the program to encourage the development community to build more affordable housing units without suppressing overall needed housing development in the City. Specifically, the City would like to see more interest in its 12-year MFTE program option. While developers have frequently used the City's 8-year MFTE program option, there have been no developers as of June 2024 that have used the 12-year MFTE program option.

The purpose of this evaluation is to test different MFTE Program changes and assess how different scenarios can help balance the City's goals of targeted housing development and affordable housing production under local housing market conditions. In addition, this evaluation will help inform potential policy updates to consider for the Housing Chapter in the City of Bellingham Comprehensive Plan, especially updates that would help expand the affordable housing supply for all economic segments of the population to meet new state requirements and broaden housing options needed over the next two decades.

What is the Multifamily Tax Exemption (MFTE) Program?

The Washington State MFTE program allows a local jurisdiction to incentivize diverse housing options in urban centers lacking in housing choices or workforce housing units by providing tax exemptions for developers.[2] The program allows a property tax exemption authorized for 8, 12, or 20 years to stimulate the construction of new, rehabilitated, or converted multi-family housing and is often used to support mixed-income housing development. MFTE program requirements can vary since local jurisdictions can include additional requirements or incentives and can diversify program characteristics as long as the program meets the minimum state requirements. When implementing an MFTE program, local jurisdictions are tasked with developing clear guidance for the terms under which properties are eligible for tax exemption.

[2] State of Washington Chapter 84.14 RCW outlines the existing requirements for implementing a MFTE program (first codified in 1995, updated most recently in 2021, MFTE program background). Only projects with 4 or more units are eligible and only property owners who commit to renting or selling at least 20% of the units to low- and moderate-income households are eligible for the 12-year exemption. The intent of this state law is to help address the insufficiently available residential units and affordable housing units; support mixed income residential development; promote redevelopment of urban centers; and increase market rate workforce housing and affordable housing opportunities. The Washington Department of Commerce provided more guidance to indicate the 12-year would require at least one unit at 80% of AMI.

The Existing City of Bellingham MFTE Program

The City of Bellingham currently offers the following two program options for developers building at least four new multifamily units within the five designated areas (BMC 17.82).

- **8-Year MFTE Program:** An 8-year property tax exemption with no housing affordability requirements if located in the City Center, Fountain District, and Samish Way Urban Village areas.
- **12-Year MFTE Program:** A 12-year property tax exemption is offered when a project includes at least 20% affordable units in the development affordable to certain household income thresholds set in relation to the region's median family income (MFI). This program is available for projects located in the Samish Way, Fountain District, Fairhaven, Barkley Village, and City Center Urban Village areas.

SETTING AFFORDABILITY

The Department of Housing and Urban Development (HUD) sets income limits each year to establish eligibility for its assisted housing programs and to define an area's Area Median Income (AMI) HUD's AMI calculation relies on underlying Census data related to family incomes, and the 100% median is set for families of four. It is important to note that Median *Household* Income (MHI) is not directly comparable to HUD's AMI; MHI is for all household types, not just families.

The state sets minimum affordability thresholds for the 12-year program, but jurisdictions can choose to establish more stringent requirements. Bellingham's 12-year program affordability requirements require deeper affordability levels than the state program, as shown in Exhibit 1 below.

Exhibit 1: City of Bellingham and Washington State MFTE Requirements

	BELLINGHAM REQUIREMENTS	STATE REQUIREMENTS
Rental Housing	20% of units at 60% AMI or 80% for two-bedroom units	20% of units at a mix of 80% to 115% of AMI
Ownership Housing	20% of units at 80%-115% of AMI	20% of units at 115% of AMI

Source: City of Bellingham, Washington Department of Commerce. Median Family Income

Residential Target Areas

The City of Bellingham currently offers the MFTE program to five targeted residential areas located within its urban villages.[3] The program was first adopted in 1999 in the City Center (Downtown District and Old Town). It was expanded in 2010 to include Fountain District and Samish Way, and again in 2015 to include Barkley Village and Fairhaven. Of the five villages, all

[3] Pursuant to the Bellingham Municipal Code, under BMC 17.82.

offer the 12-year program, and three (City Center, Fountain District, and Samish Way) offer the 8-year program. Maps of these areas can be found in Exhibit 13 in the Appendix.

Program Usage to Date

As of June 2024, no projects have used the 12-year program. However, the City reports that the 8-year MFTE program has resulted in 1,824 market-rate residential units. Of these units, 779 units are currently receiving the tax exemption and 430 units are pending.

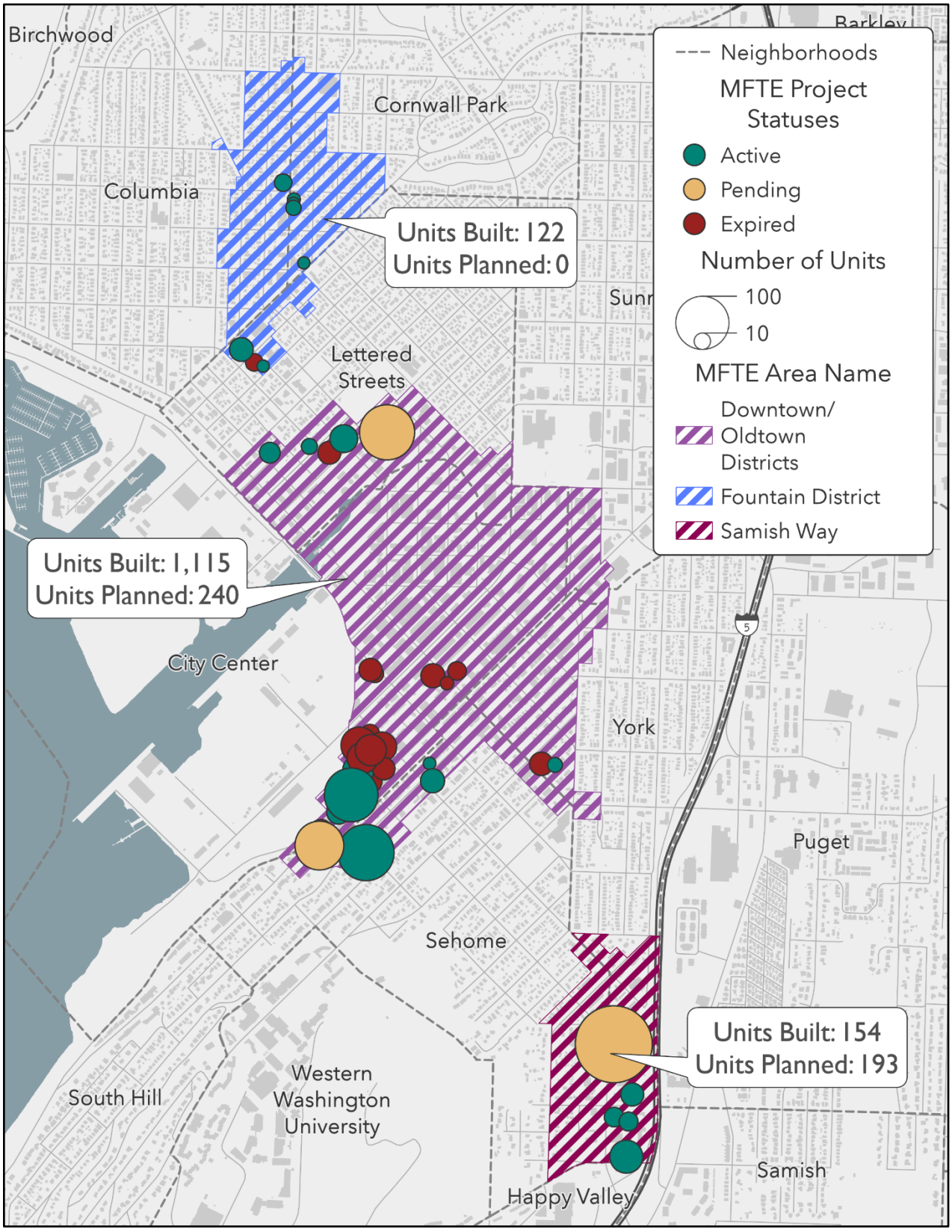
Exhibit 2: City of Bellingham MFTE Units Developed to Date (June 2024)

STATUS	CITY CENTER	FOUNTAIN	SAMISH WAY	FAIRHAVEN/ BARKLEY	TOTAL
Expired	592	20	0	0	612
Active	523	102	154	0	779
Pending	240	0	193	0	433
Total	1,355	122	347	0	1,824

Source: City of Bellingham

The map below shows the location, status and scale of projects that have used the existing 8-year MFTE program as of June 2024. The active and expired units are mostly located in Downtown Bellingham, as the program has been available in that area the longest. However, Samish Way has a high number of pending units, with 193 additional housing units scheduled to receiving tax exemption beginning in 2025.

Exhibit 3: Map of City of Bellingham MFTE Units Developed as of June 2024



Source: City of Bellingham and ECOnorthwest

3. Analysis Approach

To assess the feasibility of housing development in the City of Bellingham, the team examined how various Multifamily Tax Exemption (MFTE) program options, location, development type, and other variables contribute to various housing-related goals. We explored three general questions:

1. Is the 8-year MFTE program still needed to incentivize multifamily development?
2. Where and how could the 12-year program be recalibrated to incentivize affordable housing development best?
3. How can the City best balance different development priorities under current development conditions?

Since high interest rates and the cost of financing significantly impact development feasibility, the team also conducted sensitivity testing around certain financing metrics to see how policies might function in improved market conditions.

This section outlines our analysis framework, methodology, and major assumptions informing the analysis.

MFTE Program Scenarios

In addition to testing market-rate development (no exemption), the project team and partners selected the following four MFTE program scenarios for evaluation:

1. **Existing 8-Year Program Scenario:** Does not have an affordability requirement for housing units.
2. **Existing 12-year Program Scenario 1**: The City's existing 12-year program, a 12-year tax exemption requiring 20% of the total housing units to be affordable to households earning 60% of AMI or lower.
3. **New 12-year Program Scenario 2**: Washington State's minimum 12-year program affordability requirements require 20% of units to be affordable to households earning 115% of AMI and at least one unit at 80% of AMI or lower.
4. **New 12-year Program Scenario 3:** A 12-year program scenario requiring 20% of the housing units to be affordable to households earning 100% of AMI and at least one unit affordable to households at 80% of AMI or lower.

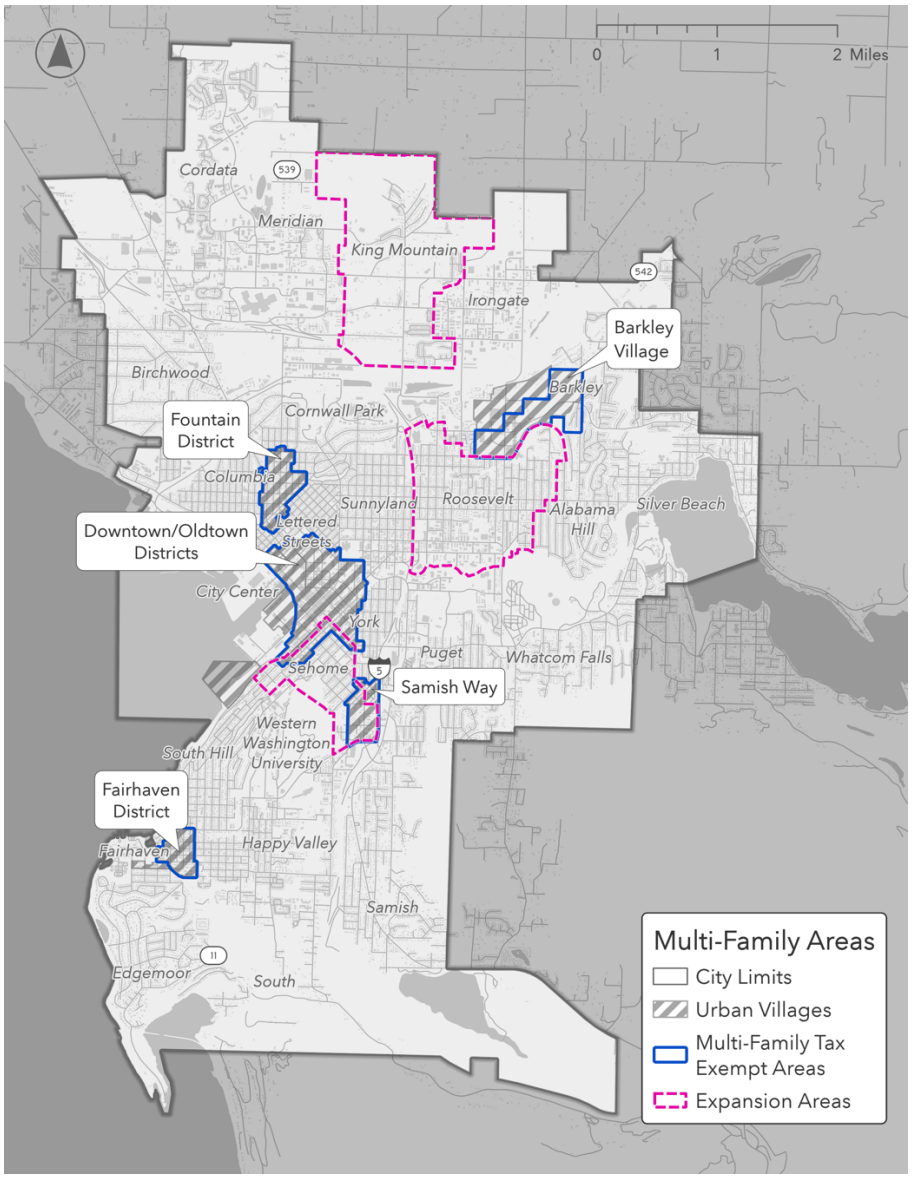
Residential Target Areas

In Washington, the MFTE Program can be used in Residential Target Areas (RTAs), defined as designated areas within urban centers that are determined to lack "sufficient, desirable, and convenient" housing, including affordable housing.[4] The relevant jurisdiction, either city or county, determines these areas to encourage additional housing development through tax incentives.

[4] RCW 84.14.040

Potential RTAs should have zoning and development standards (particularly for density and building height) that encourage multifamily housing development to ensure the program can be used.[5] [6]

Exhibit 4: Existing MFTE Areas, Urban Villages, and Potential Expansion Areas



Source: ECOnorthwest

ECO worked with WHA and Bellingham staff to identify the appropriate residential target areas for evaluation.

Of the existing MFTE areas, the project team selected five: Fairhaven, City Center (Downtown District and Old Town), Samish Way, and Fountain District. The remaining area, Barkley, was not assessed because of its unique development situation.[7]

In addition to the five existing MFTE areas, we evaluated three potential program expansion areas: King Mountain, Roosevelt, and Sehome. These areas were chosen to represent a range of market values, development potential, and interest in affordable housing development.

Zoning Details

While each of the eight analysis areas contains a few different zones, the project team selected development standards for one representative zone from each area based on guidance provided

[5] The state MFTE program rules require a minimum of housing with four or more dwelling units (source: RCW 84.14).
[6] A map of current zoning and MFTE areas can be found in Exhibit 14 in the Appendix.
[7] Land in the Barkley neighborhood is largely owned and developed by a single development firm.

by city staff. Relevant development standards for each area are shown in Exhibit 5 below. Parking requirements by zone are included in Exhibit 15 in the Appendix.

Exhibit 5: Development Standards for Analysis Areas

Area	Zone	Min lot size *(square feet)*	Max lot size *(square feet)*	Max height *(feet)*	Max FAR	Maximum building lot coverage *(percent of lot area)*	Usable space *(square feet per unit)*	Code Source
Fountain District	UV	0	None	45	2.5	100%	0	20.37.200
Fairhaven	UV	0	None	65	None	100%	0	20.37.300
Downtown District	UV	0	None	65	None	100%	0	20.37.500
Samish Way	UV	0	None	75	2.5	100%	0	20.37.100
Old Town Overlay	C	0	None	75	3.5	100%	0	20.35.070
Sehome	RM 2	0	None	35	None	35%	250	20.00.160
King Mountain	RM 13	3,600	None	35	None	35%	250	20.00.095
Roosevelt	RM 7	0	None	35	None	35%	250	20.00.140

Source: Bellingham Municipal Code. FAR: Floor Area Ratio, CC: City Center, RM: Residential Multi, UV: Urban Village

Residential Development Prototypes

The MFTE program applies to residential development, but the impact of this incentive could vary depending on the scale of the housing. To evaluate the feasibility of the tax abatement on different scales of housing development, we modeled three different prototypical developments, or *prototypes*.

With input from WHA and City staff, the team selected three prototypes: townhomes, mid-rise apartments, and podium apartments with ground-floor retail. These prototypes were chosen based on recent developments in Bellingham, and building specifications were modeled on specific comparable (or "comp") projects in the City, shown below.



Comp: Alpengrove

Townhomes



Comp: Sophia Place

Mid-Rise Apartments



Comp: Kerf Apartments

Podium with Retail

When modeling the prototypes, we also aligned their building specifications with the development standards of each of the analysis areas. While some specifications (such as building area and number of units) are consistent across zones, others (such as site size and number of parking

stalls) will vary based on development standards. Key building details are shown in Exhibit 6 below.

Exhibit 6: Building Prototype Specifications

	TOWNHOMES	MID-RISE	PODIUM
Building height (feet)	35 feet	45 feet	65 feet
Total building area (square feet)	12,600 sf	64,000 sf	210,000 sf
Total retail area (square feet)	N/A	N/A	7,000 sf
Total residential units	6 units	54 units	200 units
Density (depends on location)	22 to 50 dwelling units per acre	51 to 105 dwelling units per acre	64 to 96 dwelling units per acre
Average unit size (square feet)	2,100 sf	743 sf	788 sf
Unit Mix	3-bedrooms	25% studios 40% 1-bedrooms 25% 2-bedrooms 15% 3-bedrooms	15% studios 40% 1-bedrooms 35% 2-bedrooms
Parking type	Private garage	Surface	Mix of structured and surface

Source: ECOnorthwest

For parking and site area specifications for each analysis area, see Exhibit 16 through Exhibit 18 in the Appendix.

Feasibility Analysis Method

ECOnorthwest used a pro forma analysis approach to assess the feasibility of development and address key questions. The pro forma model considers the prototypes, entitlement limits, and various financial market conditions of the target areas (e.g., rents, operating and construction costs, and investment return requirements). Ultimately, this assessment will evaluate the value of different program options to help the City understand the likelihood of developers building multifamily and affordable housing under different MFTE program scenarios.

Residual Land Value

The pro forma analysis uses a residual land value metric. Residual land value (RLV), or the "land budget", is an estimate of what a developer would be able to pay for land after accounting for:

- The property's income from rental revenue,
- The cost to build and operate the building,
- The investment returns that would be needed to attract capital for the project.

In simpler terms, it is the budget that developers have left for land after analyzing all other development constraints. If the Residual Land Value (RLV) is equal to or higher than the land prices in the potential development area, the development is considered feasible at market rate. If the RLV is zero dollars, the development could be feasible if the land were donated for free. However, if the RLV is less than zero, the development is likely infeasible unless a developer receives additional subsidies or incentives.

It's important to note that the results from this method provide a general analysis of prototypes and do not consider the many potential unique conditions that could affect development feasibility (e.g., increased predevelopment costs, low land basis from long-time land ownership). For these reasons, a residual land value analysis should be considered a strong indicator of the relative likelihood of development, rather than an absolute measure of return to the investor or developer.

WHY ARE DEVELOPMENT FEASIBILITY AND PRO FORMA ANALYSES IMPORTANT?

Constructing housing can be costly and risky, and the costs associated with constructing affordable housing can be even more challenging. Getting funding to build new housing requires lenders and investors to be reasonably confident they will earn enough financial return to justify the risks.

While some of the factors that determine market feasibility are outside a jurisdiction's direct control (e.g., labor and materials costs, interest rates, market rents), local jurisdictions can provide incentives or adjust fees, zoning, programs, and other regulations that can substantially impact whether development is feasible.

Residual Land Value Model Benefits

In our analysis, a RLV approach allows for comparison of multiple development variables by establishing a clear feasibility benchmark. Since we are comparing the feasibility of different policies and development scales, rather than the feasibility of a specific project, RLV is a useful tool for standardizing feasibility across various development scales. In projects requiring multiple sensitivity tests by prototype, policy, and other factors, RLV can easily provide an understanding of the trade-offs of different policy choices for different prototype buildings.

The RLV model also offers a feasibility assessment without the need for multiple additional assumptions to calculate a project's internal rate of return (IRR). To estimate IRR, we usually need to make assumptions about when a developer plans to sell or refinance the project, what the lending environment will be like at that time, or how valuable the project will be when sold. Small changes in these assumptions can significantly impact the resulting IRR and understanding of the impact of different policy choices for different building types. IRR can also be a more subjective metric, as different developers have varying access to capital and risk tolerance. An IRR model

would be more accurate for specific deals because it factors in all potential project considerations that developers continuously update and vet. However, because we are dealing with prototypical developments across a large area, an IRR model is generally too precise for policy calibration purposes and exposes the analysis to the risk of more assumptions and inappropriate conclusions. Using an RLV model can reduce the need to predict these future conditions and minimize the risk of false precision.

Analysis Assumptions

This section outlines our methodology and assumptions for the main pro forma inputs.

Land Values

In this report, we use real market values from the Whatcom County assessor's office as a proxy for land sales. The report compares the feasibility of housing development to current average market values in the relevant zones, which may present more or less favorable results based on land availability and market dynamics.

We used the assessor data to organize the real market values of each parcel by neighborhood and into two categories: vacant and non-vacant. To identify vacant parcels, we examined the improvement value of each parcel; parcels with an improvement value of zero were classified as vacant. We then calculated the average total market value per square foot for each category as well as the overall average for all parcels.[8] Additionally, we tallied the number of vacant parcels and total vacant area for each neighborhood. In neighborhoods with limited vacant land availability, it is more likely that a developer would need to pursue infill or redevelopment projects on non-vacant land. Because there is a wide range between vacant and non-vacant land costs, we have included the average values for both vacant and all land for each neighborhood in our findings.

We also looked at CoStar data of recent vacant land transactions within the last two years. Because there were limited observations, we were not able to reliably use this data to establish values by neighborhood. However, we were able to use this data to verify the average price of vacant land in the City, which generally aligned with the assessor data. Per the CoStar data, the average sale price per square foot for vacant land was $36.

Land values and availability are shown in Exhibit 7 below.

[8] The overall average is much closer to the values of non-vacant land due to the limited availability of vacant land.

Exhibit 7: Land Costs per Square Foot and Total Vacant Area by Neighborhood

LOCATION	$/SF VACANT LAND	$/SF NON-VACANT LAND	$/SF OF ALL LAND	TOTAL VACANT PARCELS	VACANT AREA (ACRES)	TOTAL AREA
Fairhaven District	$66	$108	$107	13	2.7	86.4
Fountain District	$36	$88	$88	5	0.8	58.6
Sehome	$29	$86	$84	32	10.6	215.5
City Center (Downtown & Old Town)	$29	$80	$78	70	13.2	311.0
Roosevelt	$16	$52	$51	45	20.4	627.4
Samish Way	$30	$51	$49	11	5.0	50.6
King Mountain	$8	$43	$42	108	328.2	2,803.3

Source: ECOnorthwest

Revenues

Average rent rates are based on two main sources: CoStar data for multifamily buildings and current rent listings. For the CoStar data, we filtered the data for newly developed buildings (post-2020) to reflect rent premiums for new construction. We also sorted the data by building type, unit type, and unit size to come up with an average rent per square foot for each prototype, as well as comparison data for rents in different neighborhoods. To verify this data, we also compared both total unit rents and rent rates per square foot currently listed online for comparable projects.

Exhibit 8 shows the average rent for each prototype in each neighborhood, considering unit sizes, unit types and mixes, and variations by location.

Exhibit 8: Average Rent Assumptions by Prototype and Neighborhood

NEIGHBORHOOD	TOWNHOMES	MID-RISE	PODIUM
Fairhaven	$3,587	$2,550	$2,666
Downtown	$3,431	$2,439	$2,550
Old Town	$3,431	$2,439	$2,550
Fountain District	$3,119	$2,217	$2,318
Samish Way	$3,119	$2,217	$2,318
Sehome	$3,275	$2,328	$2,434
King Mountain	$2,963	$2,106	$2,202
Roosevelt	$2,963	$2,106	$2,202

Source: ECOnorthwest, CoStar, Zillow

Costs

Construction costs for the prototypes are based on three main sources: the 2024 National Building Cost Manual, recent project work in similar markets, and local developer interviews. We used an average cost between these sources, with more weight paced on the local developer interviews; however, cost estimates were consistent between the three sources.

Exhibit 9 shows our baseline average costs per square foot for various project aspects. Costs were also adjusted for certain neighborhoods to reflect variations in construction grades across the city: a 10% cost premium for development in Fairhaven, a 5% cost premium for Downtown and Old Town, and a 5% discount for King Mountain and Roosevelt.

Exhibit 9: Development Costs per Square Foot

COST (PER SQUARE FOOT)	TOWNHOMES	MID-RISE	PODIUM
Average residential cost	$200	$250	$251
Retail cost, including tenant improvement	--	--	$300
Indoor and covered parking costs	$60	--	$100
Landscaping, surface parking, and paving	$1	$25	$28
Total construction cost	$221	$256	$269
Soft costs as a share of hard costs (excluding property taxes)	24%	19%	18%
Total development cost	$300	$333	$348

Source: ECOnorthwest, National Building Cost Manual, developer interviews

Financing

Financing metrics, such as loan interest rates and debt service coverage ratios, are based primarily on developer interviews, both locally and for similar development scales and markets across Western Washington. Because high interest rates and the cost of financing significantly impact development feasibility, we conducted sensitivity testing around certain financing metrics to see how policies might function in improved market conditions. Holding all other factors constant, we tested two scenarios:

- Current market financing conditions: A construction loan interest rate of 8%, a permanent loan interest rate of 7%, and a debt service coverage ratio of 130%.
- Improved market financing conditions: A construction loan interest rate of 7%, a permanent loan interest rate of 6%, and a debt service coverage ratio of 125%.

The **debt service coverage ratio** (DSCR) measures a project's ability to cover its debt obligations with projected revenue. Lenders may require a higher DSCR to approve a loan in riskier development environments.

4. Analysis Findings

Our results are divided into two categories: Findings under current market financing conditions and findings under improved market financing conditions. Within these sections, the results are presented by program option: no program (market rate), the 8-year program, and the various 12-year program scenarios.

KEY FINDINGS

- Under current market conditions, development is not feasible, even with the incentives offered by the 8-year program and 12-year program scenarios.
- Under any market condition, the City's current 12-year program decreases development feasibility.
- Under improved market conditions, market-rate development will likely be feasible, especially in higher-rent neighborhoods. The 8-year program improves development feasibility but may not be necessary to make it feasible.
- Increasing the 12-year program to 20% of units affordable at 100% or 115% AMI generally improves development feasibility for higher-density prototypes but does not provide enough incentive to outcompete the 8-year program.
- Changes to parking and lot coverage requirements can also increase feasibility.

Current Market Conditions

The analysis resulted in the following findings for current market conditions, using a construction loan interest rate of 8%, a permanent loan interest rate of 7%, and a debt service coverage ratio of 130%:

Under current market conditions, market-rate development is not feasible for the prototypes or areas tested.

The residual land value results for all prototype and neighborhood combinations are substantially below vacant land values, and negative for all except townhomes in Fairhaven. These results are expected based on developer interviews and general development conditions across the state and country. A few major development barriers include:

- **Cost of borrowing:** Higher interest rates have substantially increased developers' borrowing costs, affecting both the cost of construction loans and their ability to finance projects long-term.
- **Financing challenges:** In addition to securing loans to finance the project, developers will usually need to raise equity, usually from investors, to cover a large portion of the development costs (our model assumes 30%). This can be tens of millions of dollars, which

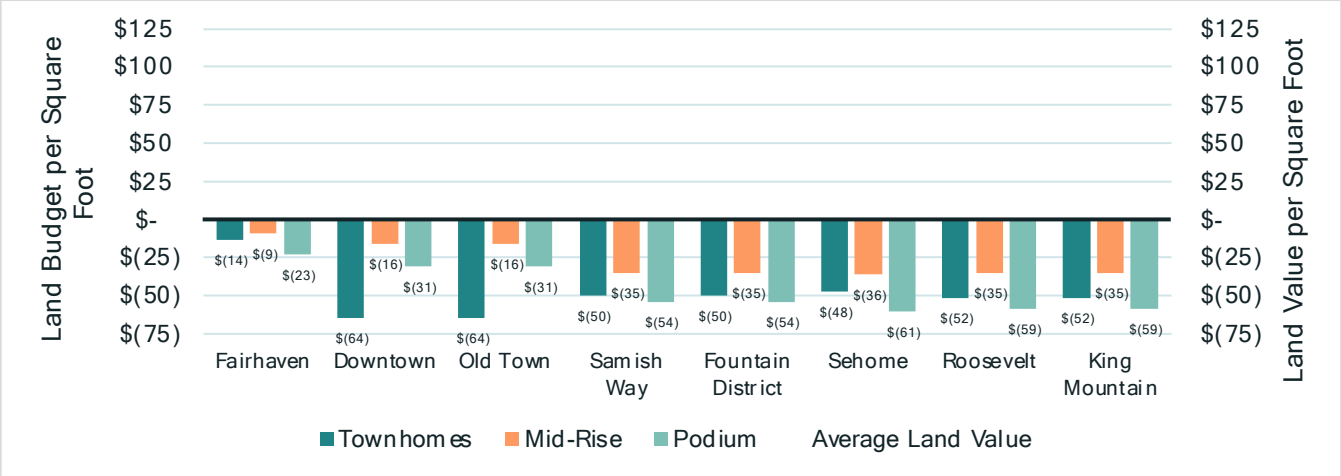
can be much harder to raise in a more difficult development environment, especially if the projects are outside of major urban centers. In addition, the cost of acquiring existing apartment buildings is both less expensive and less risky than building new construction, limiting the pool of interested investors.

- **Construction Costs**: Inflation has driven up the cost of construction materials and labor. Supply chain disruptions have further exacerbated these issues, making materials more expensive and delivery timelines less predictable.

INTERPRETING RESULTS CHARTS

The gray boxes represent a range of land values in the city; the lower bound is the average value of vacant land, and the upper bound is the average value of all land parcels. There are many factors that go into actual land pricing, including land condition, any existing structures, availability of other land nearby, and proximity to transit and other amenities. Because of these factors, the relationship between the land *budget* and land *prices* should be read as more of an indicator of likelihood of development rather than absolute certainty. In the charts included here, if the land budget is below the gray box, development is not likely, as the developer would not be able to afford even lower-priced vacant parcels. If the land budget is above the gray box, development feasibility is likely as the developer would be able to pay for the average cost of land. If the land budget falls within the gray box, development would be possible under certain circumstances; the higher the budget relative to the land value, the more likely the project is feasible.

Exhibit 10: Residual Land Value Results and Land Values for Market Rate Development, Current Market Conditions



Source: ECOnorthwest

The 8-year program improves development feasibility but not enough to make development feasible in current market conditions.

Compared to market-rate development, using the 8-year program increases land budgets by between $9 and $26 per square foot, depending on the prototype and neighborhood.[9] However, land budgets are still well below land costs for both vacant and non-vacant land.

The City's current 12-year program decreases development feasibility.

Compared to market-rate development, the City's current 12-year program (20% of units affordable at 60% of AMI) decreases land budgets by $20 to $59 per square foot.[10] For all prototypes across all neighborhoods, the land budget is negative, meaning the development would not be feasible without additional incentives even if the land were provided for free.

Increasing the 12-year program to the statute minimum affordability requirements increases feasibility for the mid-rise and podium prototypes, but not enough to make development feasible under current market conditions.

We also tested the impact of the 12-year program if the affordability requirements were raised to the minimum thresholds required by the statute (20% of units affordable at 115% AMI, except for at least one unit affordable at 80% AMI).

- **Compared to market rate:** The 12-year program at 115% AMI increases land budgets by between $17 and $33 per square foot of land budget.[11]
- **Compared to the 8-year program:** The 12-year program at 115% AMI slightly increases land budgets in all neighborhoods except Fairhaven, increasing the land budget by between $2 and $8 per square foot.[12]

However, in all neighborhoods, the land budget remains well below the value of both vacant and non-vacant land, making development infeasible.

AFFORDABLE TOWNHOMES

The affordability requirements have a much more negative impact on smaller developments like the townhome prototype (six units) than on larger projects. To meet the affordability requirement of having at least 20% of units designated as affordable, two out of the six townhome units would need to be affordable, resulting in an actual ratio of 33% affordable units. **In all 12-year program scenarios, the program reduces the feasibility of the townhome prototype, so it is not included in the 12-year program discussions.**

Improved Market Conditions

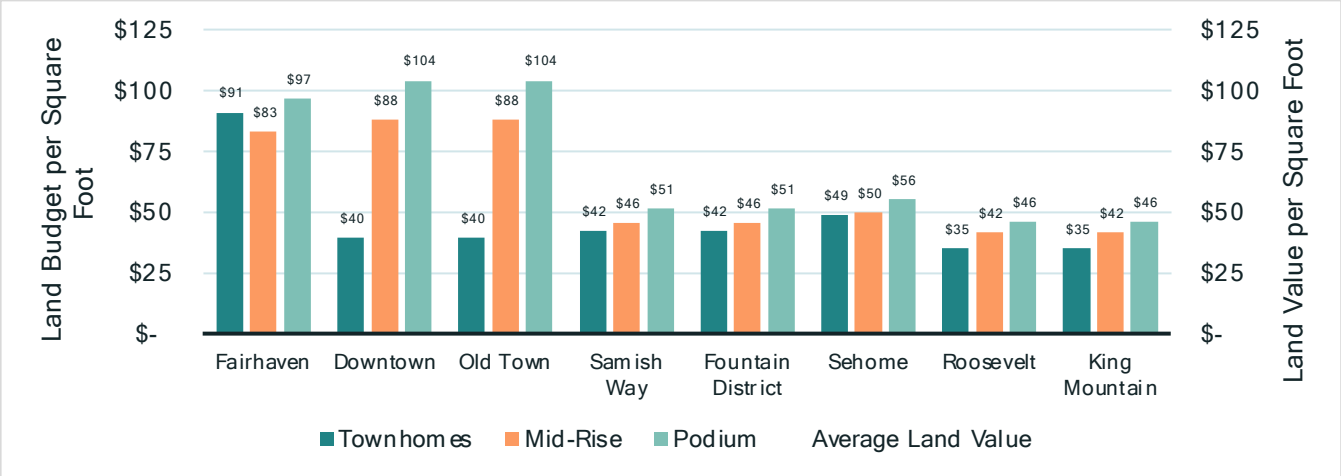
The analysis resulted in the following findings for improved market conditions, using a construction loan interest rate of 7%, a permanent loan interest rate of 6%, and a debt service coverage ratio of 125%:

Market rate development will likely be feasible, especially in higher-rent neighborhoods.

[9] See Exhibit 19: Residual Land Value Results and Land Values for 8-Year Tax Exemption, Current Market Conditions in the Appendix.
[10] See Exhibit 20: Residual Land Value Results and Land Values for 12-Year Tax Exemption with 20% Units Affordable to 60% Area Median Income, Current Market Conditions in the Appendix.
[11] See Exhibit 21 in the Appendix.
[12] See Exhibit 22 in the Appendix.

For all prototypes in all neighborhoods, the residual land value results are above vacant land values, implying development would likely be feasible if vacant land is available. For the mid-rise and podium prototypes in the Downtown and Old Town, land budgets are above the average land values, implying development or redevelopment is likely regardless of the availability of vacant parcels. For other prototypes and neighborhoods, redevelopment potential would likely largely depend on the availability of underutilized parcels for sale for below-average land values (such as parking lots or vacant or older buildings).

Exhibit 11: Residual Land Value Results and Land Values for Market Rate Development, Improved Market Conditions



Source: ECOnorthwest

Development likelihood is increased by the 8-year program but may not be necessary to make development feasible.

Compared to market-rate development, the 8-year program increases land budgets by between $16 and $30 per square foot, depending on the prototype and market.[13] However, as shown in Exhibit 11 above, development is likely already feasible in several neighborhoods. While the 8-year program may increase the likelihood of development across the City, it may not be necessary to make market-rate development feasible *in improved market conditions.*

The City's current 12-year program decreases development feasibility, even under improved market conditions.

Even in improved market conditions, the City's current 12-year program substantially reduces feasibility, reducing the land budget between $49 and $100 per square foot across all prototypes and market areas.[14]

Increasing the 12-year program to the minimum affordability requirements increases the development feasibility of the mid-rise and podium prototypes. However, the 12-year program does not outcompete the 8-year program.

[13] See Exhibit 23 in the Appendix.
[14] See Exhibit 24 in the Appendix.

We tested the 12-year program with the minimum statute affordability threshold (20% of units affordable at 115% AMI) compared to both market-rate development and the 8-year program under improved market conditions.

- **Compared to market rate:** The 12-year program is a development incentive for all markets. The 12-year program at 115% AMI increases land budgets by between $18 and $32 per square foot for the mid-rise and podium prototypes, depending on the market area.[15]
- **Compared to the 8-year program:** With the exception of Fairhaven (where feasibility decreases), the 12-year program at 115% AMI slightly increases land budgets by between $1 and $7 per square foot. This is likely not enough incentive to use the program.[16]

Changing the 12-year program to 20% of units affordable at 100% AMI increases development feasibility for the mid-rise and podium prototypes in lower-rent areas. However, the program does not out-compete the 8-year program in any neighborhood.

We also tested the 12-year program with different depths of affordability. In lower-rent neighborhoods, there is more opportunity to require deeper affordability, as there is a smaller delta between current market rents and rents affordable to households earning below 115% of the AMI. Under improved market conditions, there may be an opportunity to lower the affordability threshold to 100% AMI and still maintain an incentive above the market rate.

- **Compared to market rate:**[17] The program is a development incentive in lower-rent markets (Samish Way, Fountain District, Roosevelt, and King Mountain), increasing land budgets by between $16 to $21 per square foot. In higher-rent markets (Fairhaven, Downtown, Old Town, and Sehome), the 12-year program at 100% AMI either slightly decreases feasibility or does not increase it enough to be a development incentive (only adding between $3 and 9 per square foot).
- **Compared to the 8-year program:**[18] Across most neighborhoods, the 12-year program is less feasible than the 8-year program. In Roosevelt and King Mountain, the 12-year program slightly improves land budgets (by $1 to $3 per square foot) but is likely not enough to incentivize program use.

Changes to parking and lot coverage requirements can also increase feasibility.

ASSESSING THE 12-YEAR PROGRAM

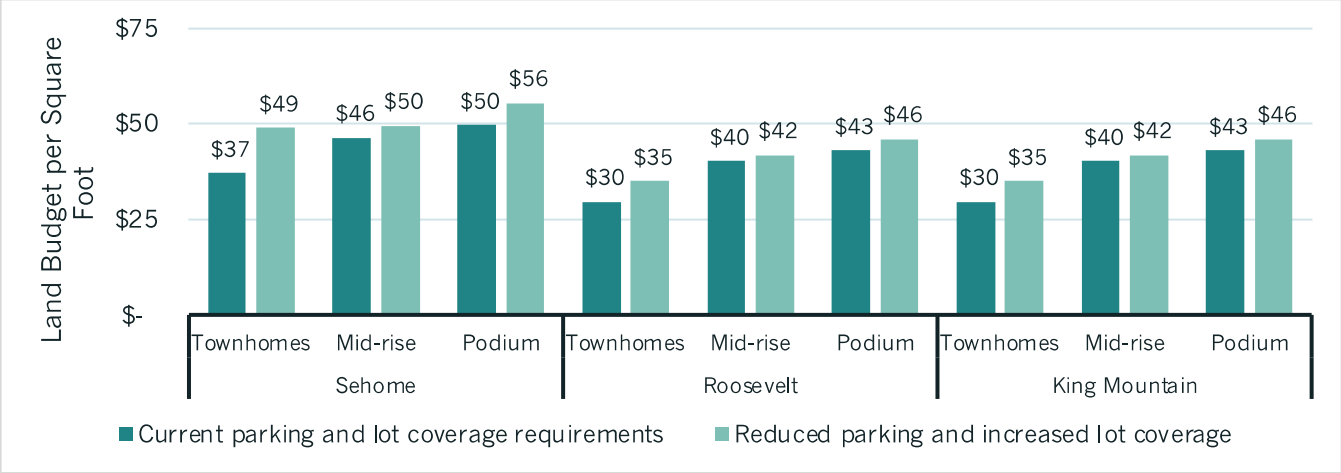
To assess the appeal of the 12-year program, we evaluated whether it added a minimum of $10 per square foot to the project's land budget compared to the 8-year program and market-rate development. Due to the affordability requirements of the 12-year program, which can raise operating costs and reduce the potential sale value of a development, developers would likely require a more significant incentive to compensate for the added risk and effort. If the 12-year program only offers a minimal financial incentive, developers would likely opt for the 8-year program if available or no program at all.

[15] See Exhibit 25 in the Appendix.
[16] See Exhibit 26 in the Appendix.
[17] See Exhibit 27 in the Appendix.
[18] See Exhibit 28 in the Appendix.

During interviews, stakeholders shared that parking requirements can be a barrier to development. In part, decreasing parking requirements can increase feasibility by reducing the amount of land needed for a project, both reducing costs and increasing potential project sites. However, the maximum lot coverage for buildings in the RM zone is 35%, which often requires a larger lot than would be needed for the building, parking, and landscaping alone; in other words, only reducing the parking would have no impact.

We tested increased maximum lot coverage and reduced parking requirements in the expansion areas, allowing a maximum lot coverage of 100% and lowering required parking ratios to the standards in Fountain Head, Fairhaven, and Samish Way. As shown below, these adjustments increased the feasibility of the mid-rise and podium prototypes by $2 to $6 per square foot and the townhome prototype by $5 to $12 per square foot.

Exhibit 12: Residual Land Value Results and Land Values for Market Rate Development, Improved Market Conditions, Reduced Parking and Increased Lot Coverage



Source: ECOnorthwest

5. Recommendations

The real estate market generally cycles through four stages: recovery, expansion, hyper-supply, and recession. Expansion sees increasing demand, rising property values, and new construction. In hypersupply, overbuilding leads to higher vacancy rates and stabilizing or declining values. Recession follows, characterized by oversupply, high vacancies, declining values, and reduced construction activity. Recovery follows a downturn with low property values and little new construction, slowly improving as demand stabilizes. Currently, the market is in a recession phase, evidenced by the feasibility analysis results and decreased permitting activity.

We have divided our recommendations into two categories: short-term recommendations that address current development challenges and prepare the City for market recovery, and longer-term recommendations to consider implementing as the market improves.

Short-Term Recommendations

Our short-term recommendations are aimed at helping the City support any potential development that may be viable under current market conditions and prepare for future market improvement. These recommendations are also in the context of the City's upcoming 2025 comprehensive plan update.

Keep the 8-year program in its current locations.

The feasibility analysis showed that market-rate development is not feasible under current conditions, even with an 8-year property tax exemption. While feasibility stays low, we recommend the City keep the program in place as it is, as it may help some projects become feasible during a period where no housing would likely be built otherwise.

Consider relaxing parking and lot coverage standards in Residential Multi (RM) zones.

The current parking requirements in denser neighborhoods like Sehome may be higher than necessary. The City could consider reducing required parking in RM zones to match the standards found in more residential Urban Villages (such as the Fountain District), denser Urban Villages (such as Downtown) or even eliminating parking requirements entirely. While developers may choose to provide more parking than required, especially in less dense areas like King Mountain or Roosevelt, reducing parking requirements would give developers the flexibility to balance market demand with specific project circumstances.

Consider increasing minimum lot coverage requirements in the RM zones.

Since parking reductions increase feasibility, in part, by reducing a project's lot size, we recommend that the City also increase its minimum lot coverage requirements in conjunction with

parking changes. We recommend that the City consider making these changes in the short term to support development in the RM zones when market conditions improve.

Consider revisions to the vacancy requirement for the demolition of existing housing.

The City should evaluate different scenarios associated with the 12 month vacancy MFTE eligibility requirement for the demolition of existing homes since this applies to all housing, including single family homes. The state requirement only applies to demolition of existing multi-unit (or multifamily) housing. The City experienced a few instances where developers are interested in replacing a single family home with large multifamily projects that would contribute greatly to the city's housing supply, but the local restriction on the demolition of single family homes acted as an impediment. The City should review the state law requirements (see RCW 84.14.030) and the existing code sections applicable to this requirement (BMC 17.82.030 Project Eligibility) to alleviate this restriction in a way that achieves the City's housing goals and prevents the displacement of affordable housing.

Consider setting up an office to administer and monitor affordable units.

According to developer interviews, market-rate developers are often hesitant to include affordable units due to increased operating costs and other considerations. Many developers in the city are smaller firms with limited capacity to research, interpret, and financially analyze the requirements of the 12-year program option. In interviews, developers expressed that they were less familiar with the 12-year program requirements and perceived it as riskier compared to market-rate development or the 8-year program. The City could potentially increase program usage by providing ongoing predictability and ease of compliance with program requirements. This office could assist developers or property management companies with tenant screening, leasing, program compliance monitoring, and any required documentation. The City could provide this support itself, work with the county, or partner with an affordable housing nonprofit.

Longer-Term Recommendations

The goal for the long-term recommendations is to give the City flexibility to determine how an MFTE program can be recalibrated most effectively to support various housing goals and needs. Based on the findings, the following recommendation options are provided to help advance three goals outlined below.

If the city wants to increase housing development broadly:

- **Keep the 8-year program in place.** Its historic use demonstrates its effectiveness as a development incentive.
- **Change the 12-year program to Washington State minimum program standards (20% of units at 115% AMI).** In some markets, this program will likely be more profitable than

the 8-year program, and the City will likely see a mix of developers using the 8- and 12-year programs depending on the development type and location.

- **Expand program locations across the city.** Based on the feasibility analysis, both the 12-year and 8-year programs serve as development incentives. If the city aims to promote housing development citywide, expanding program locations would offer the best chance of success. The City could expand the residential target areas where the MFTE program can be used across the city (consider allowing it in certain zones or plan areas).

If the city wants to direct development to certain neighborhoods while increasing mixed income housing development:

- **Keep the 8-year program in place and update the 12-year program to match the minimum Washington State MFTE Program standards 20% of units at 115% AMI).** As discussed above, this combination of MFTE programs offers the strongest development incentive and the greatest likelihood of program use. However, the 8-year program will likely generally outcompete the 12-year program and contribute to market rate development.
- **Offer the programs only in neighborhoods where the City would like to direct development growth.** The MFTE program is a significant development incentive and will likely attract interest wherever offered, especially compared to areas with no incentives.

If the city wants to focus on promoting affordable housing development:

- **Revise the 8-year program as development conditions improve to provide for more affordable housing development.** If market conditions improve, the analysis indicates that market-rate development will likely become feasible in Bellingham, and the City may not need the 8-year program as an incentive. However, the 8-year program will likely be more profitable than both market-rate development and the 12-year program in many areas, removing any incentive to use the 12-year program and include affordable units. We suggest that the City monitor development conditions, especially interest rates, and development interest, which could be gauged using multifamily permit applications. As development resumes, the City should consider revising the program to require a certain share to be affordable units out of the total units (such as 5 to 10% of the units at 115% AMI, carefully calibrated to complement the 12-year program) or consider limiting this program option.
- **Consider a two-tiered 12-year program.** The feasibility analysis shows that different neighborhoods have varying tolerance levels for affordable housing in relation to market-rate rents. In higher-rent neighborhoods like Fairhaven, Downtown, Old Town, and Sehome, we recommend the City maintain a higher affordability requirement (20% of units at 115% of the Area Median Income) to provide an incentive for development over market rate. However, the City has more flexibility in lower-rent neighborhoods such as Samish Way, Fountain District, Roosevelt, and King Mountain. In these areas, the City could adjust the 12-year program requirements to 20% of units at 100% of the Area Median Income. However, it is important that these thresholds are calibrated correctly to current market

rents, so we suggest the City reassess rents in each neighborhood when it is ready to make program changes.

» **Expand program locations but consider displacement risk.** Expanding program locations can increase opportunities for developers to use the incentive in exchange for affordable units. However, the City should be careful to avoid supporting projects that would remove naturally occurring affordable housing in potential expansion areas. Homes in many areas (such as King Mountain and Roosevelt) tend to be older and are often already affordable at less than 100% AMI. By incentivizing development in these areas, there is a risk that these more affordable units would be replaced with more expensive units, even if some of the units are technically income-restricted.

Other long-term program considerations and recommendations include:

Offer the 12-year program extension to retain affordable housing units for a longer time period.[19] While it will be many years before a project can use this additional incentive, the City could offer the opportunity for a potential 12-year tax extension. Offering this program won't negatively impact development feasibility and could be an incentive for certain projects.

Monitor and consider recalibrating the MFTE program regularly. Regular monitoring and program evaluation can help ensure the City is meeting its housing goals by calibrating program changes correctly. We suggest completing an additional program evaluation and feasibility analysis every 3 to 5 years to enhance program performance and test ways to adjust and recalibrate the program. In addition, feasibility analysis should occur more regularly if there is little or no participation in program options two to three years after program changes.

Anti-Displacement Strategies

While the 12-year MFTE program incentivizes the production of affordable housing units, the City should also take steps to preserve its existing, unsubsidized, naturally occurring affordable housing. Below are several strategies the City could consider in conjunction with changes to its MFTE program.

Supportive Policies, Ordinances and Incentives

The City should consider establishing policies or ordinances that avoids displacing households living in affordable housing and allows for the preservation of affordable housing/spaces, as well as financial assistance for landlords and property owners, in exchange for maintaining affordability. Key examples and guidance:

» **Selection of Residential Target Areas:** For MFTE program expansions, the City should evaluate the potential risk of displacement of residents currently living in the area to ensure that the displacement risk is minimal. If it is not minimal, the City should mitigate the risk of displacement risk with measures such as (but not limited to) the first right of refusal to

[19] The 12-year program extension allows developers to receive another 12 years of tax exemption, but they must offer 20% of units that are affordable at 80% AMI.

occupy the newly created housing receiving the exemption (including the affordable housing, as long as they meet the eligibility requirements).[20]

- **Landlord financial assistance,** in which local governments provide financial assistance via rehabilitation grants and loans to landlords who maintain the affordability of their rental property.
- **Extending the length of rent-restricted affordable housing:** The City could consider measures (such as incentives the state now permits) to extend the length of the affordable housing requirement for the MFTE program after the affordability requirement lapses.

Restrictions and Disincentives

Ordinances and tax policy modifications that restrict and discourage landlords and property owners from increasing rents or selling properties at high prices.[21] These policies may also include requirements related to the habitability of the property. Examples include:

- **Just cause eviction policies,** in which local governments establish laws that limit the circumstances in which landlords can evict tenants, outside of nonpayment of rent, violation of lease terms, or permanent removal of a dwelling from the rental market.
- **Right to renew policies,** in which local governments establish laws that allow tenants the right to renew their lease if the landlord or property owner cannot legally justify eviction.
- **Tenant relocation assistance programs,** in which local governments fund or offer tenant relocation assistance programs to provide tenants support in finding alternative housing that they can afford and meets their needs. These programs are often paid by the local governments in cases of public development, and the landlord in cases of eviction.
- **Rental increase taxes,** in which local governments require landlords to pay property taxes on the percent increase in annual rent.

Facilitation of Shared Equity, Acquisitions, Conversions, and Transfers

Local governments can support nonprofit organizations and developers in facilitating shared equity homeownership, acquiring properties for continued affordable housing, converting properties into affordable housing, or transferring development rights to maintain affordable housing.

- **Acquisition and conversion of market-rate housing to long-term affordable housing,** in which local governments support public housing agencies, community land trusts, and/or community-based organizations in acquiring existing privately-owned, market-rate housing to convert it to regulated affordable housing. Local governments can also support the acquisition of existing low-cost market-rate rental housing.
- **Transfer of development rights program,** in which local governments establish a program that allows the owner of one affordable housing development to transfer its development rights to the owner of a second property to maintain the current use of the

[20] RCW 84.14.040: https://app.leg.wa.gov/RCW/default.aspx?cite=84.14.040
[21] The City of Bellingham has several anti-displacement measures in place such as requiring sufficient notice on rental increases and rights to relocation assistance (BMC 6.14.020).

affordable housing and raise funds that can be reinvested into its preservation. The receiving owner can build at a higher density or building height than the base zoning allows.

- **Community land trusts** are nonprofit organizations that purchase land with public or private funding and lease the parcels on a long-term, renewable basis to homeowners and tenants. Homes built on the land are owned by the individual household but are more affordable than typical homes because the cost of ownership of the land is not included in the purchase price.
- **Limited equity cooperatives,** in which local governments can financially support residents in forming a limited equity cooperative (LEC), are a homeownership model in which residents purchase a share in a development (rather than an individual unit) and commit to reselling their share at a price determined by formula. This arrangement maintains collective ownership and affordability at purchase and over the long term.

6. Conclusion

The City of Bellingham's Multifamily Tax Exemption (MFTE) program has helped spur housing development in targeted areas over the past two decades. However, the current market conditions of high interest rates and construction costs have significantly impacted the feasibility of new multifamily development, even with MFTE incentives. Looking ahead, the City has an opportunity to reevaluate and refine its MFTE program strategy.

In the short term, maintaining the existing 8-year program and setting up additional development supports, such as more flexible development standards and administrative assistance could help support any viable projects during the current market downturn. In the long term, Bellingham should consider its development goals and housing needs. If the priority is to increase housing development generally while continuing to prioritize certain urban villages, the City should consider maintaining its 8-year program and increasing the 12-year program's affordability requirements to Washington's minimum affordability thresholds to maximize development feasibility while still creating some mixed-income projects and extending the 12-year to more locations across the City. Alternatively, if the City would like to prioritize affordable housing development, staff may want to implement a two-tiered 12-year program structure to promote more affordable housing development while revising the 8-year program to require a certain share of affordable housing units. Regardless of specific program changes, the City should consider measures to preserve existing unsubsidized affordable housing from displacement pressures created by new development.

While housing market cycles will continue, regularly reevaluating, adjusting and expanding the MFTE program can ensure it remains an adaptable tool aligned with Bellingham's evolving housing priorities over time. Thoughtful, data-driven program calibration will enable the City to strike the right balance between development feasibility, affordable housing, and growth priorities based on future market realities.

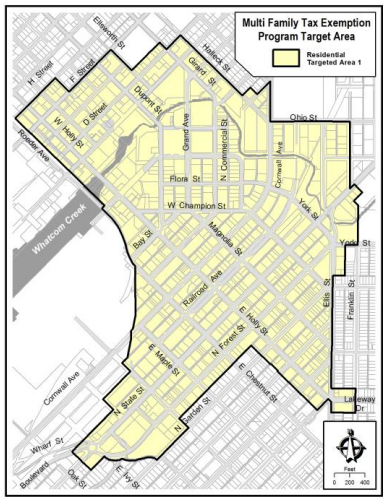
7. Appendix

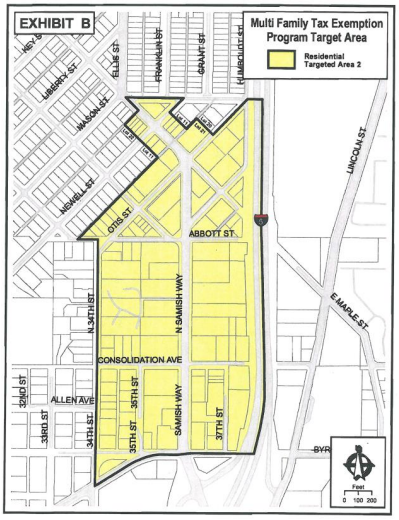
Additional Maps

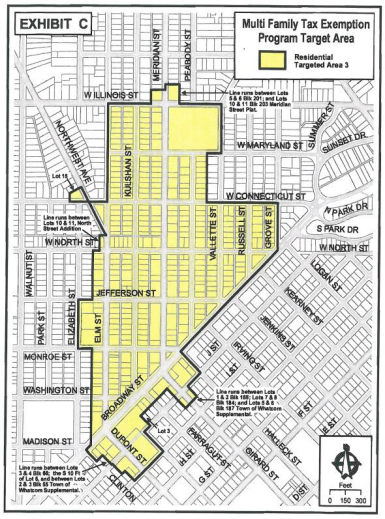
Exhibit 13: Existing City of Bellingham MFTE Program Eligibility Areas

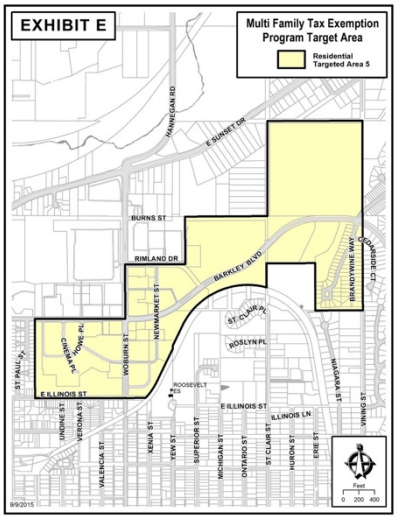
The boundaries of the “targeted residential areas” are located within the urban centers listed below, and as indicated on the maps in this section as follows (BMC 17.82).

- Exhibit A: City Center Area
- Exhibit B: Samish Way Urban Village
- Exhibit C: Fountain District Urban Village
- Exhibit D: Fairhaven Urban Village
- Exhibit E: Barkley Village









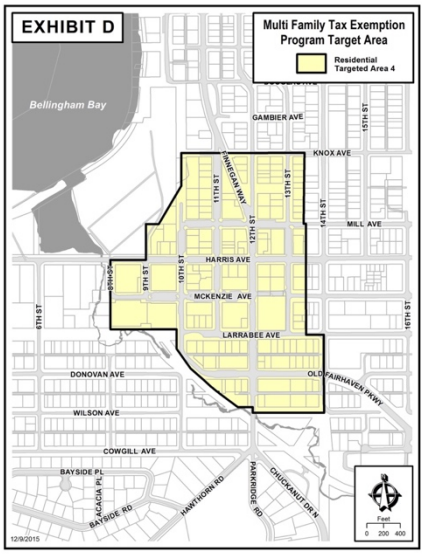
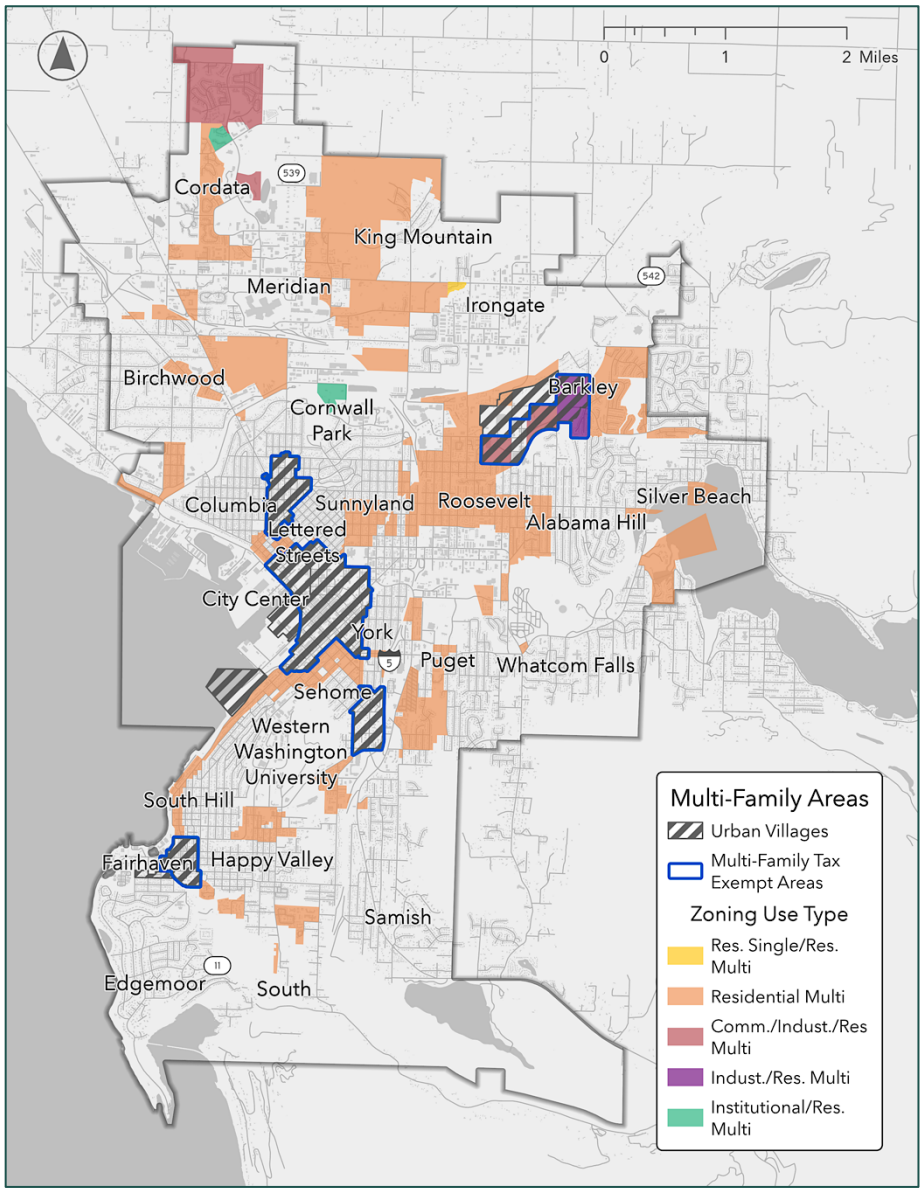


Exhibit 14: Bellingham MFTE and Urban Village Areas (2024)



Source: ECOnorthwest

Analysis Assumptions

Exhibit 15: Required Parking Stalls by Unit Type

	STUDIOS	1 BR	2 BR	3 BR
Fountain District	1	1	1	1.5
Fairhaven	1	1	1	1.5
Downtown	0.5	0.75	1	1
Samish Way	1	1	1	1.5
Old Town	0.5	0.75	1	1
Sehome	1	1.5	1.5	2
King Mountain	1	1.5	1.5	2
Roosevelt	1	1.5	1.5	2

Source: City of Bellingham

Exhibit 16: Townhome Parking and Site Specifications

SPECIFICATION	Fountain District	Fairhaven	Downtown	Samish Way	Old Town	Sehome	King Mountain	Roosevelt
Parking stalls	9	9	6	9	6	12	12	12
Parking ratio (stalls/ units)	1.50	1.50	1.00	1.50	1.00	2.00	2.00	2.00
Lot size (acres)	0.12	0.12	0.12	0.12	0.12	0.28	0.28	0.28
Dwelling units/ acre	49	49	50	49	50	22	22	22
FAR (exc. Parking)	2.37	2.37	2.43	2.37	2.43	1.05	1.05	1.05

Source: ECOnorthwest

Exhibit 17: Mid-Rise Parking and Site Specifications

SPECIFICATION	Fountain District	Fairhaven	Downtown	Samish Way	Old Town	Sehome	King Mountain	Roosevelt
Parking stalls	59	59	43	59	43	80	80	80
Parking ratio (stalls/ units)	1.09	1.09	0.80	1.09	0.80	1.48	1.48	1.48
Lot size (acres)	0.66	0.66	0.52	0.66	0.52	1.05	1.05	1.05
Dwelling units/ acre	82	82	105	82	105	51	51	51
FAR (exc. Parking)	1.85	1.85	2.36	1.85	2.36	1.16	1.16	1.16

Source: ECOnorthwest

Exhibit 18: Podium Parking and Site Specifications

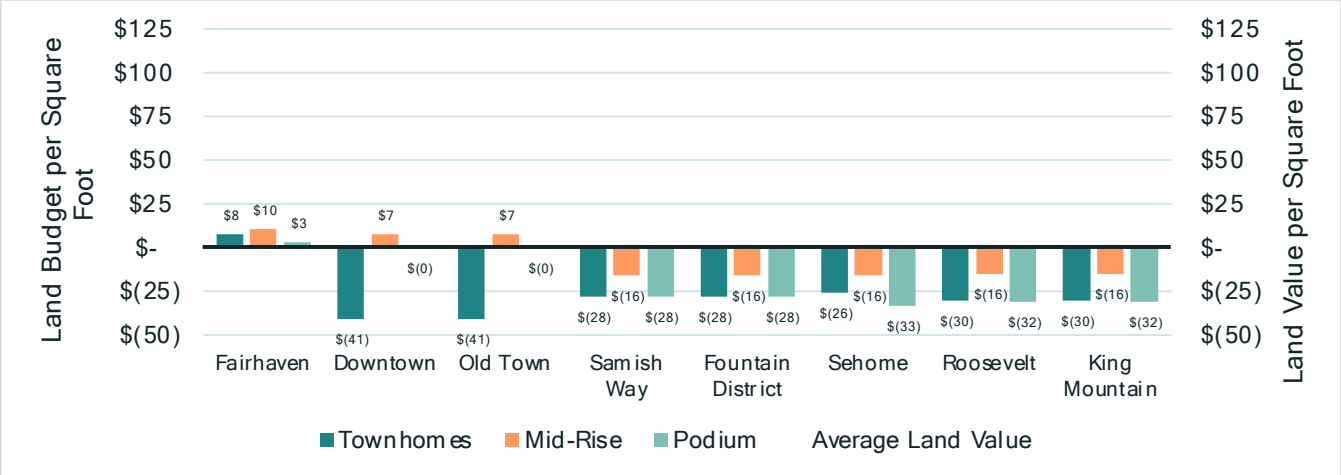
SPECIFICATION	Fountain District	Fairhaven	Downtown	Samish Way	Old Town	Sehome	King Mountain	Roosevelt
Parking stalls	224	224	179	224	179	295	295	295
Parking ratio (stalls/ units)	*1.12*	*1.12*	*0.90*	*1.12*	*0.90*	*1.48*	*1.48*	*1.48*
Lot size (acres)	2.48	2.48	2.08	2.48	2.08	3.12	3.12	3.12
Dwelling units/ acre	81	81	96	81	96	64	64	64
FAR (exc. Parking)	1.75	1.75	2.09	1.75	2.09	1.39	1.39	1.39

Source: ECOnorthwest

Additional Findings Charts

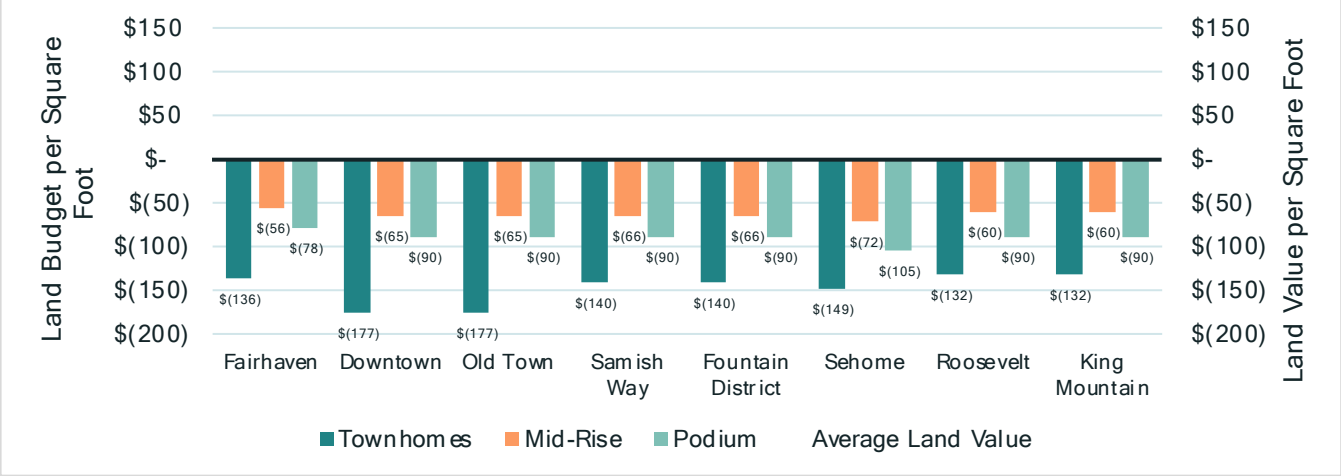
Current Market Conditions

Exhibit 19: Residual Land Value Results and Land Values for 8-Year Tax Exemption, Current Market Conditions



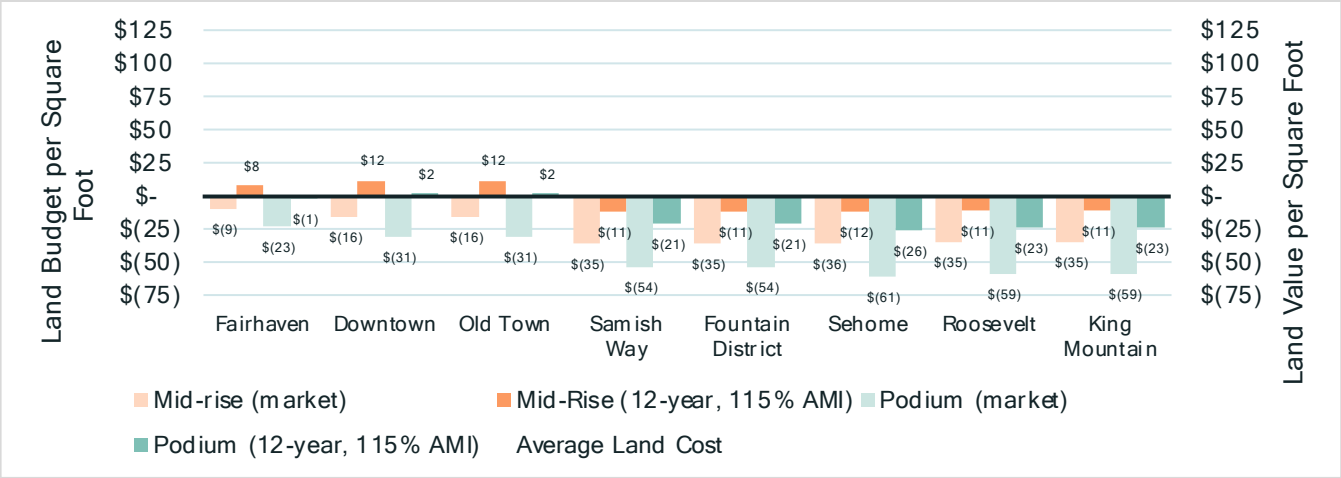
Source: ECOnorthwest

Exhibit 20: Residual Land Value Results and Land Values for 12-Year Tax Exemption with 20% Units Affordable to 60% Area Median Income, Current Market Conditions



Source: ECOnorthwest

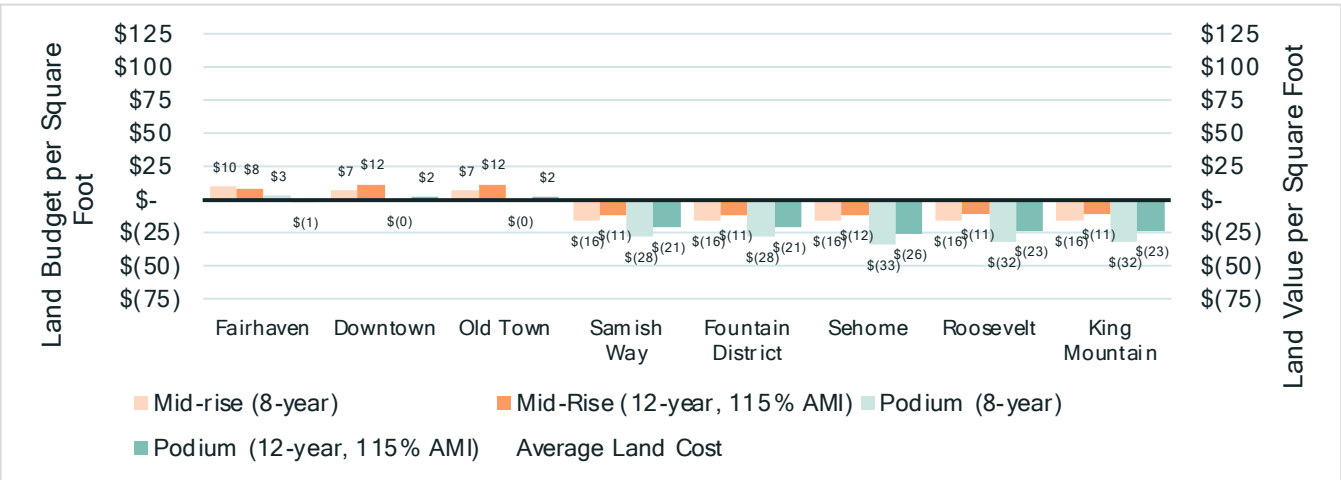
Exhibit 21: Residual Land Value Results and Land Values for Market Rate and 12-Year Tax Exemption with 20% Units Affordable to 115% Area Median Income*, Current Market Conditions



Source: ECOnorthwest

* Includes one unit affordable at 80% AMI to meet statute requirements.

Exhibit 22: Residual Land Value Results and Land Values for 8-Year and 12-Year Tax Exemption with 20% Units Affordable to 115% Area Median Income*, Current Market Conditions

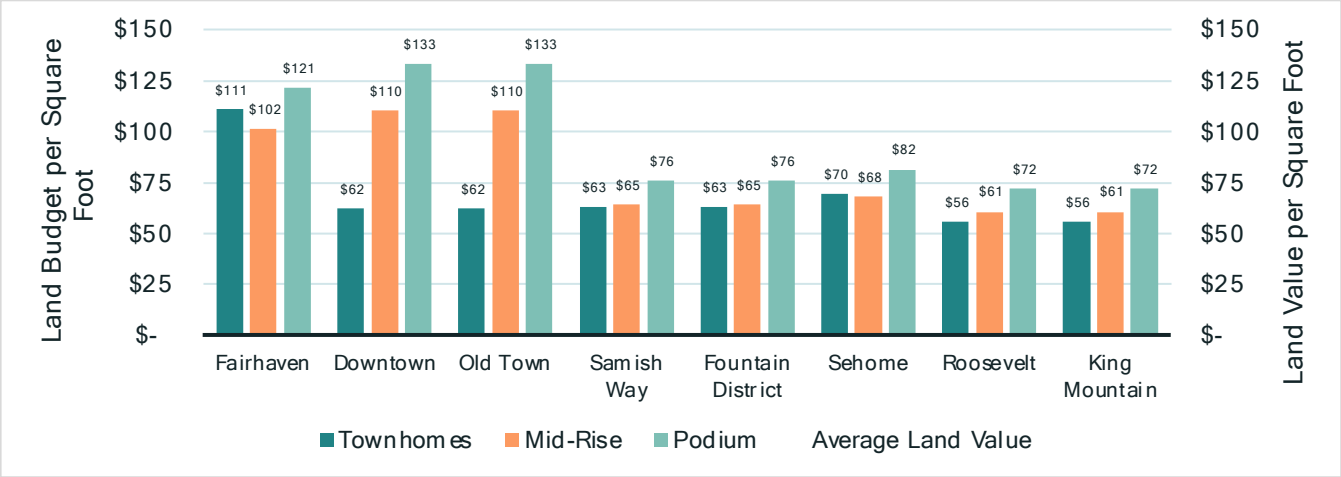


Source: ECOnorthwest

* Includes one unit affordable at 80% AMI to meet statute requirements.

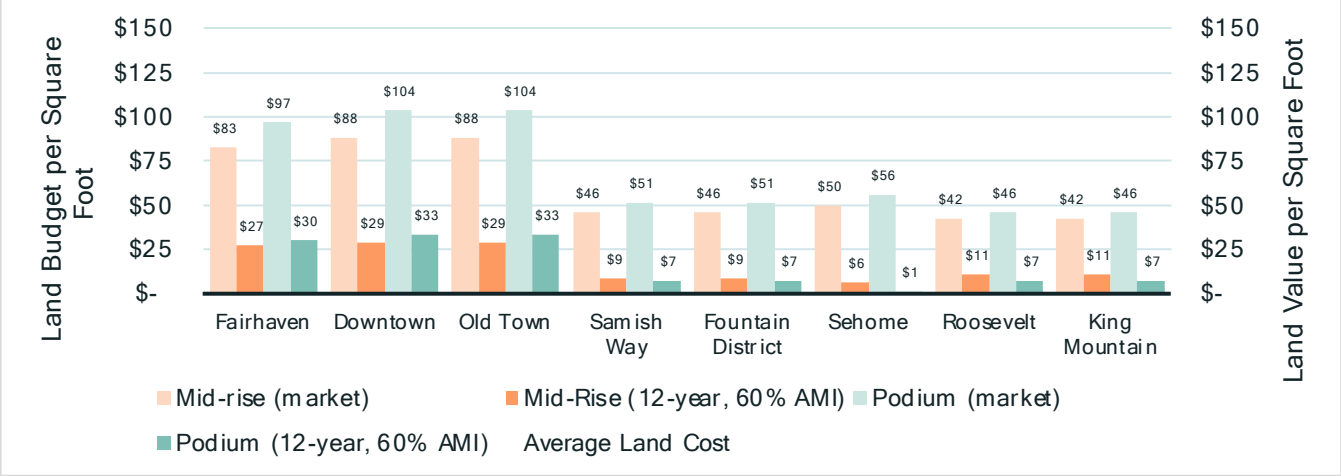
Improved Market Conditions

Exhibit 23: Residual Land Value Results and Land Values for 8-Year Tax Exemption, Improved Market Conditions



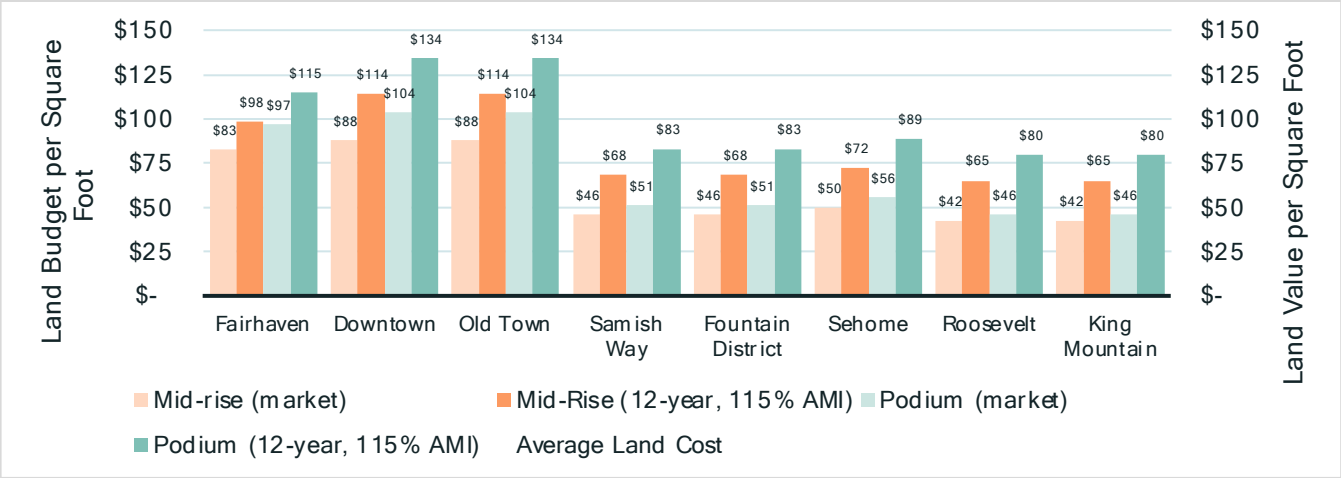
Source: ECOnorthwest

Exhibit 24: Residual Land Value Results and Land Values for Market Rate and 12-Year Tax Exemption with 20% Units Affordable to 60% Area Median Income, Improved Market Conditions



Source: ECOnorthwest

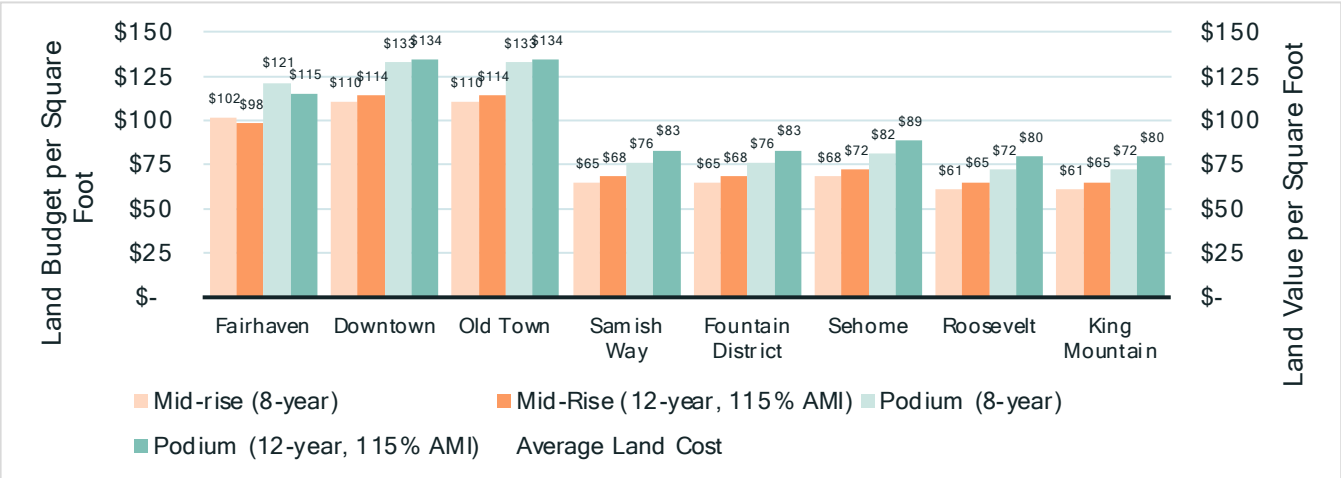
Exhibit 25: Residual Land Value Results and Land Values for Market Rate and 12-Year Tax Exemption with 20% Units Affordable to 115% Area Median Income*, Improved Market Conditions



Source: ECOnorthwest

* Includes one unit affordable at 80% AMI to meet statute requirements.

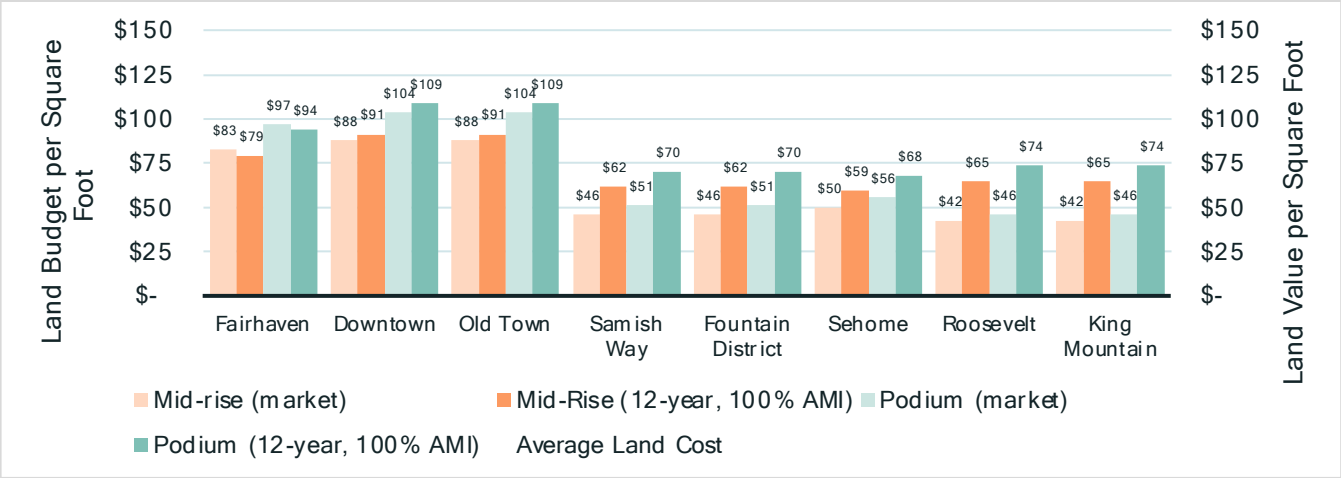
Exhibit 26: Residual Land Value Results and Land Values for 8-Year and 12-Year Tax Exemption with 20% Units Affordable to 115% Area Median Income*, Improved Market Conditions



Source: ECOnorthwest

* Includes one unit affordable at 80% AMI to meet statute requirements.

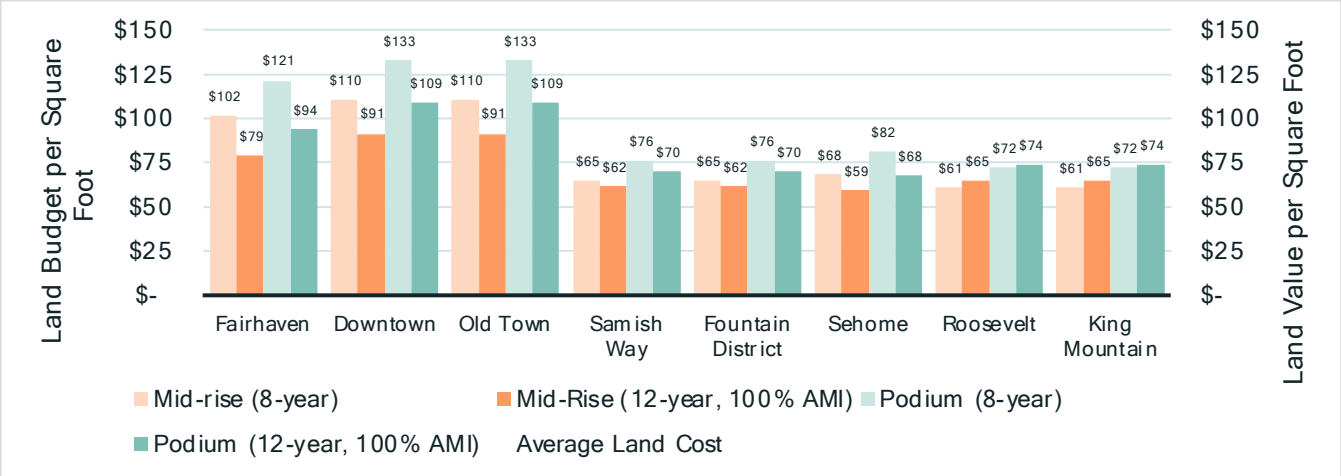
Exhibit 27: Residual Land Value Results and Land Values for Market Rate and 12-Year Tax Exemption with 20% Units Affordable to 100% Area Median Income*, Improved Market Conditions



Source: ECOnorthwest

* Includes one unit affordable at 80% AMI to meet statute requirements.

Exhibit 28: Residual Land Value Results and Land Values for 8-Year Tax Exemption and 12-Year Tax Exemption with 20% Units Affordable to 100% Area Median Income*, Improved Market Conditions



Source: ECOnorthwest

* Includes one unit affordable at 80% AMI to meet statute requirements.



Bellingham MFTE Analysis Findings & Considerations

September 30, 2024

ECO northwest

Presentation Outline

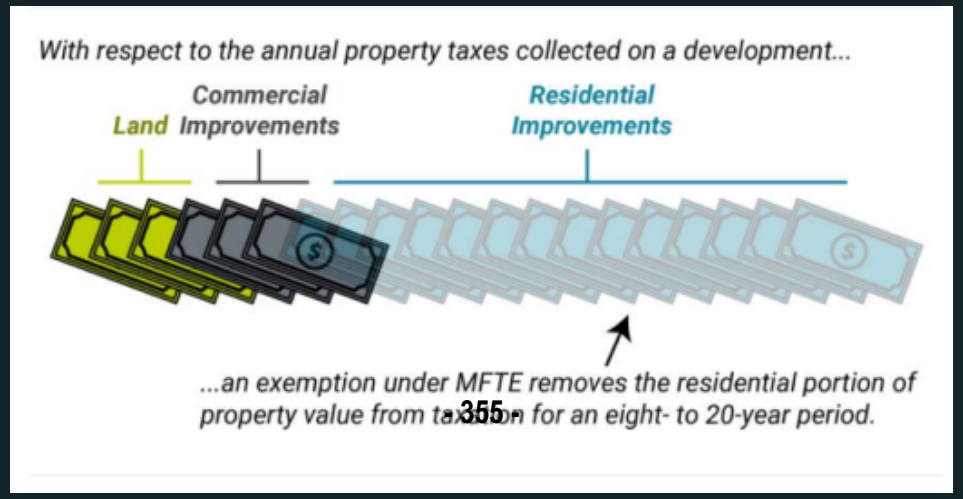
- MFTE program review
- MFTE evaluation findings and market conditions
- Program options
- City of Bellingham staff recommendations



MFTE Commerce, Source: www.commerce.wa.gov/serving-communities/growth-management/growth-management-topics/planning-for-housing/multi-family-housing-property-tax-exemption-program

Multi-Family Tax Exemption (MFTE)

Per state law, MFTE exempts property taxes for eligible new construction or rehabilitated housing for either an 8-year, 12-year, or 20-year period. The tax exemption is for the assessed improvements that create 4 or more housing units (in residential target areas, urban centers). The 12-year at a minimum requires 20% of total units be affordable for "low to moderate income" households (115% AMI or lower) & 20-year requires 25% permanent affordability for low-income households (80% AMI or lower).



Why Use a MFTE Program?

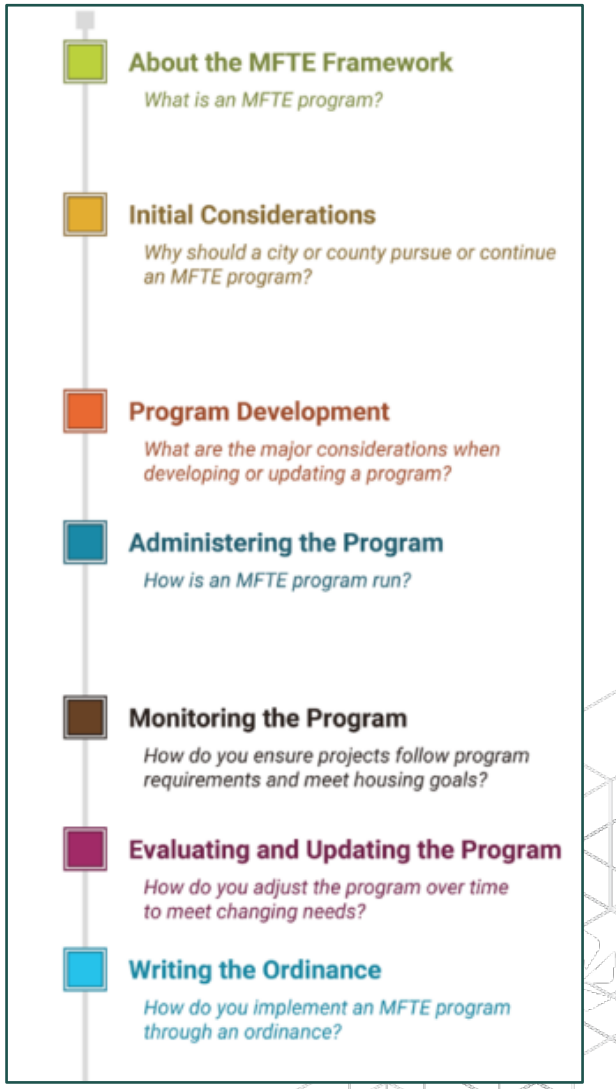
- Supports redevelopment of urban centers
- Helps meet housing targets
- Supports mixed income residential development



MFTE Program Calibration Considerations

- Certain program options are more feasible in different locations and different market conditions.
- The impact of the MFTE program differs by scale of housing development.
- Calibrating for additional public benefit can reduce feasibility.
- Consider current housing needs & housing policy goals.
- The more nuanced the program is, the more difficult ongoing implementation can become.

MFTE Workbook Flowchart, WA Department of Commerce



Bellingham's Existing MFTE Program

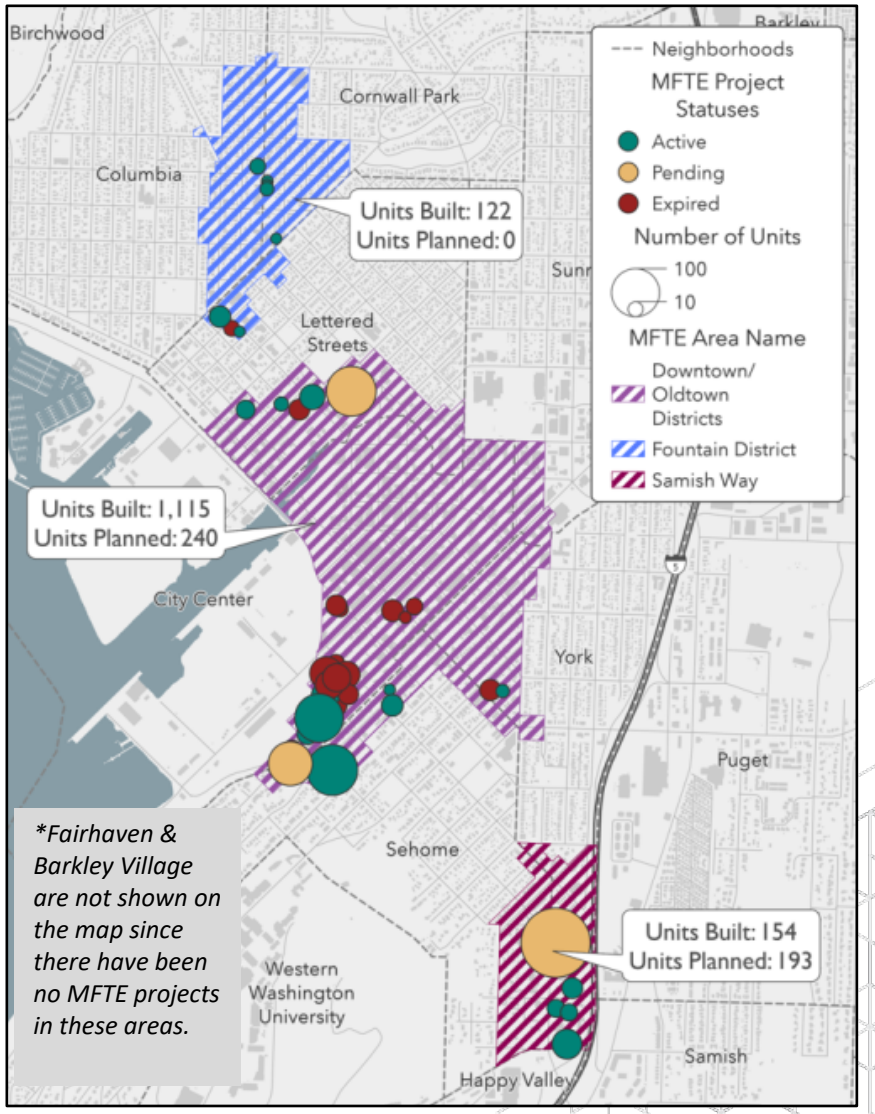
Existing MFTE Program

- 8-year exemption, no housing affordability required, in Urban Villages except Fairhaven & Barkley
- 12-year exemption, at least 20% affordable, in all Urban Villages
  - Rentals: 60% or 80% AMI, 2-bed units
  - Ownership: 80%-115% of AMI

	City Center	Fountain	Samish Way	Fairhaven/ Barkley	Total
Housing Units	1,355	122	347	0	**1,824**

MFTE first adopted in 1999 in the City Center, expanded in 2010 to include Fountain District & Samish Way, & again in 2015 to include Barkley Village and Fairhaven.
<u>As of June 2024, no projects have used the 12-year program</u>. *With 8-year, City incentivized ~1,400 residential units in Downtown, Old Town, Samish Way & Fountain Districts (another 400+ are pending).*

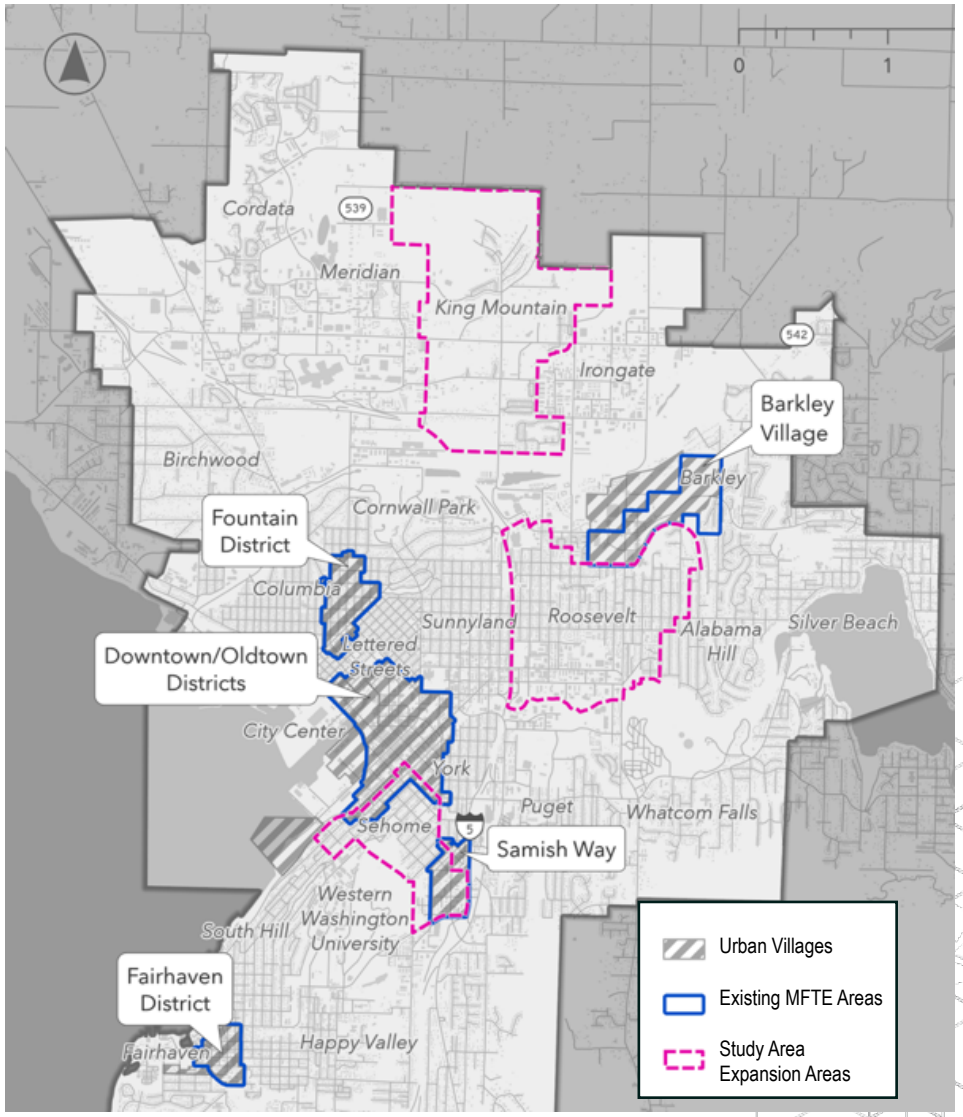
Bellingham MFTE Units Developed as of June 2024



ECOnorthwest's Scope of Work

- Kickoff with city
- Interviewed 6 local developers, affordable housing providers, & architects: market, cost considerations, opportunities & challenges
- Evaluated existing MFTE Program & changes (expansions, program changes, etc.) using development feasibility modeling, revised analysis
- Drafted and finalized results

Existing MFTE Areas, Urban Villages, Study Area Expansion Areas



MFTE Scenarios

1. Existing 8-year Program
2. Test existing 12-year: 20% units at 60% AMI (or 80% if two-bedrooms)
3. New 12-year: 20% units at 115% AMI (1 unit at 80% AMI)



Walton Place I, Source: https://www.lowincomehousing.us/wa/bellingham.html#google_vignette

Focus of the Evaluation

- Tested current market conditions compared to improved market conditions.
- Modeled 3 types of prototypes since impacts of incentives vary depending on housing scale.
- Tested MFTE expansion to: King Mountain, Roosevelt, and Sehome areas (in addition to existing areas).

Residential Development Prototypes



Comp: Alpengrove

Townhomes



Comp: Sophia Place

Mid-Rise Apartments



Comp: Kerf Apartments

Podium with Retail

WHY ANALYZE DEVELOPMENT FEASIBILITY?

Constructing housing can be costly and risky, especially affordable housing. Getting funding to build new housing requires lenders and investors to be reasonably confident they will earn enough financial return to justify the risks. While some of the feasibility factors are outside a jurisdiction's direct control (e.g., labor, materials costs, interest rates, market rents), local jurisdictions can provide incentives or adjust fees, zoning, programs, etc. to support development feasibility.

MFTE Analysis Results

Key Findings

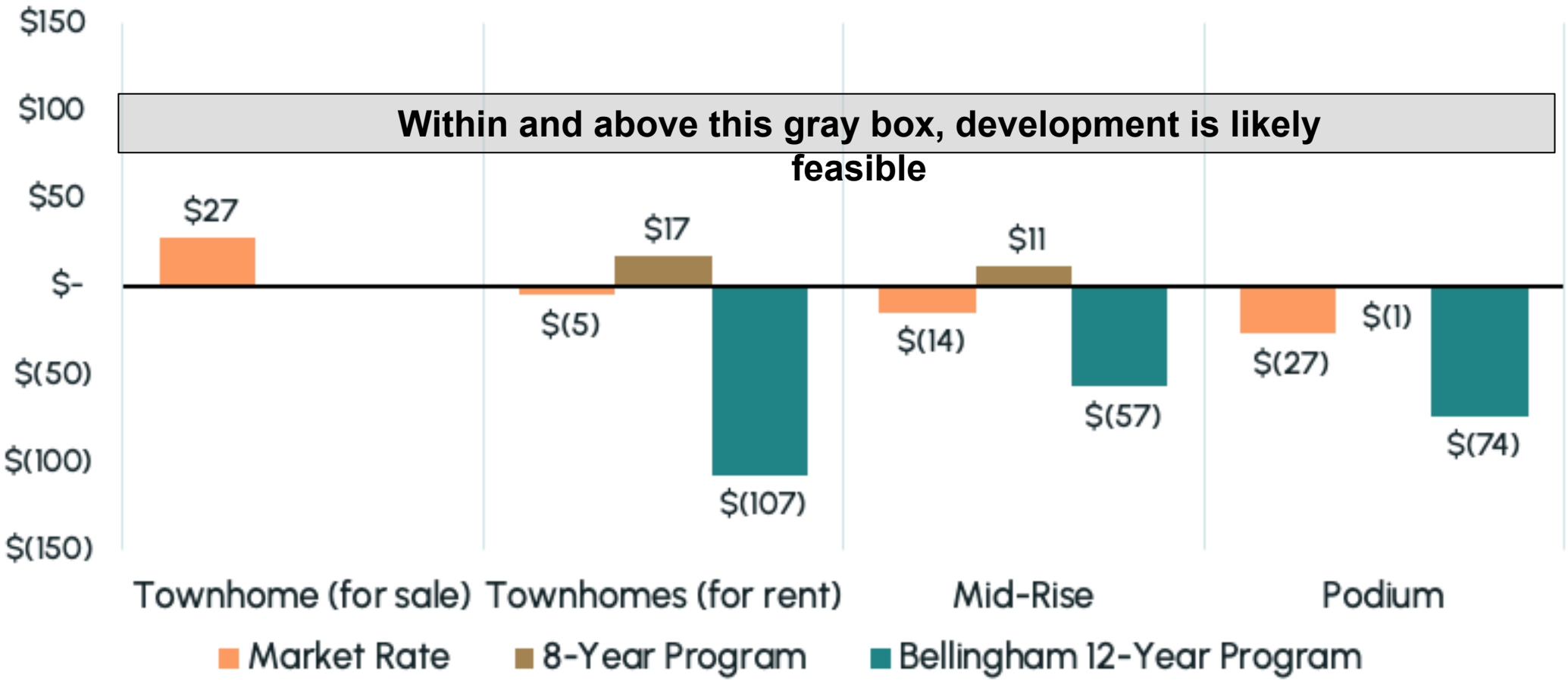
- Current market: multi-unit development **not currently feasible.**
- Current & Improved market: existing 12-year Program **decreases development feasibility.**
- **Improved market: market-rate likely feasible** (i.e., higher-rent neighborhoods.
- Changing 12-year program to be affordable to households earning 115% AMI generally **improves development feasibility for higher-density prototypes.**
- **Lowering minimum parking requirements & increasing maximum lot coverage** increases development feasibility.



Laube Hotel, Source: https://www.lowincomehousing.us/wa/bellingham.html#google_vignette

Existing MFTE Program

Current market conditions are not ideal – nothing is feasible. The City's current 12-year program decreases development feasibility, 8 year is more feasible but still not above the threshold.



Gray boxes represent a range of land values in the city; lower bound is average value of vacant land, & upper bound is average value of all parcels. If below gray box, development is not likely, as the developer would not be able to afford even lower-priced vacant parcels.

If above the gray box, development feasibility is likely.

ECOnorthwest

Modeled Key Market Changes

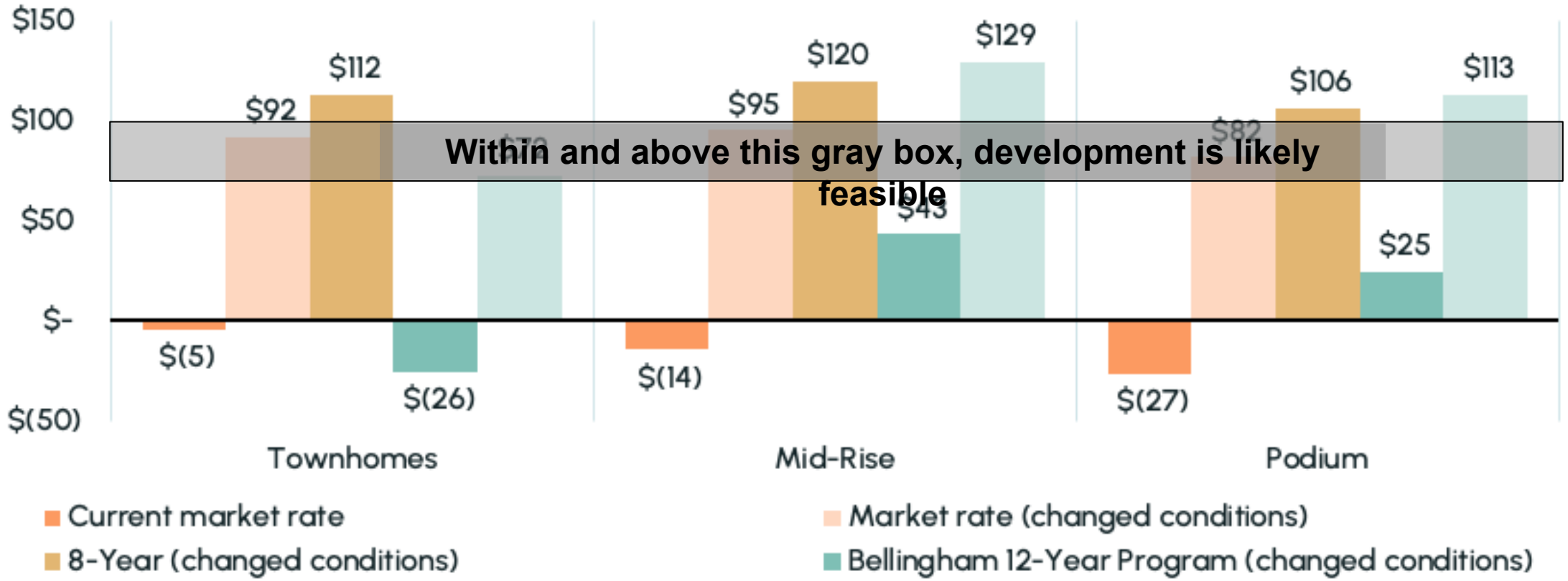
Existing → Improved

- **7%** permanent loan interest rate → **6% interest rate**
- **8%** construction loan interest rate → 7% interest rate
- **Debt service coverage ratio** (what % a developer will need to earn of the loan payment to receive a loan):
  - **130% → 125%**



MFTE under Improved Development Conditions

Assuming market conditions improve, the 8-year program is viable, but the current 12-year program is not. Less stringent affordability targets would be required. The 115% AMI shown as the WA 12-Year Program should work and, in some cases, more than pencil.



General Recommendations

- **Keep 8-year for now** as it may help some projects become feasible.
- **Consider reducing parking minimums in RM zones** to match urban villages standards, increase minimum lot coverage requirements in the RM zones.
- **Consider providing administrative support for 12-year program** to assist with tenant screening, leasing, program compliance monitoring, required documentation.



Oakland Building, Source: https://www.lowincomehousing.us/wa/bellingham.html#google_vignette

General Recommendations

- **Offer 12-year extension beyond what's currently allowed since** it will not negatively impact development feasibility & could incent certain projects.
- **Monitor & recalibrate MFTE program.** Evaluate every 3 - 5 years to enhance program performance and test ways to adjust and recalibrate.
- **Implement anti-displacement measures, revise 1 year vacancy requirement.**



Laurel Village, Source: https://www.lowincomehousing.us/wa/bellingham.html#google_vignette

Program Options

If the policy goal is to….

Increase housing development broadly

- Keep 8-year
- Change 12-year to the minimum Washington standards (20% at 115% AMI)
- Expand program locations

Direct development to target areas

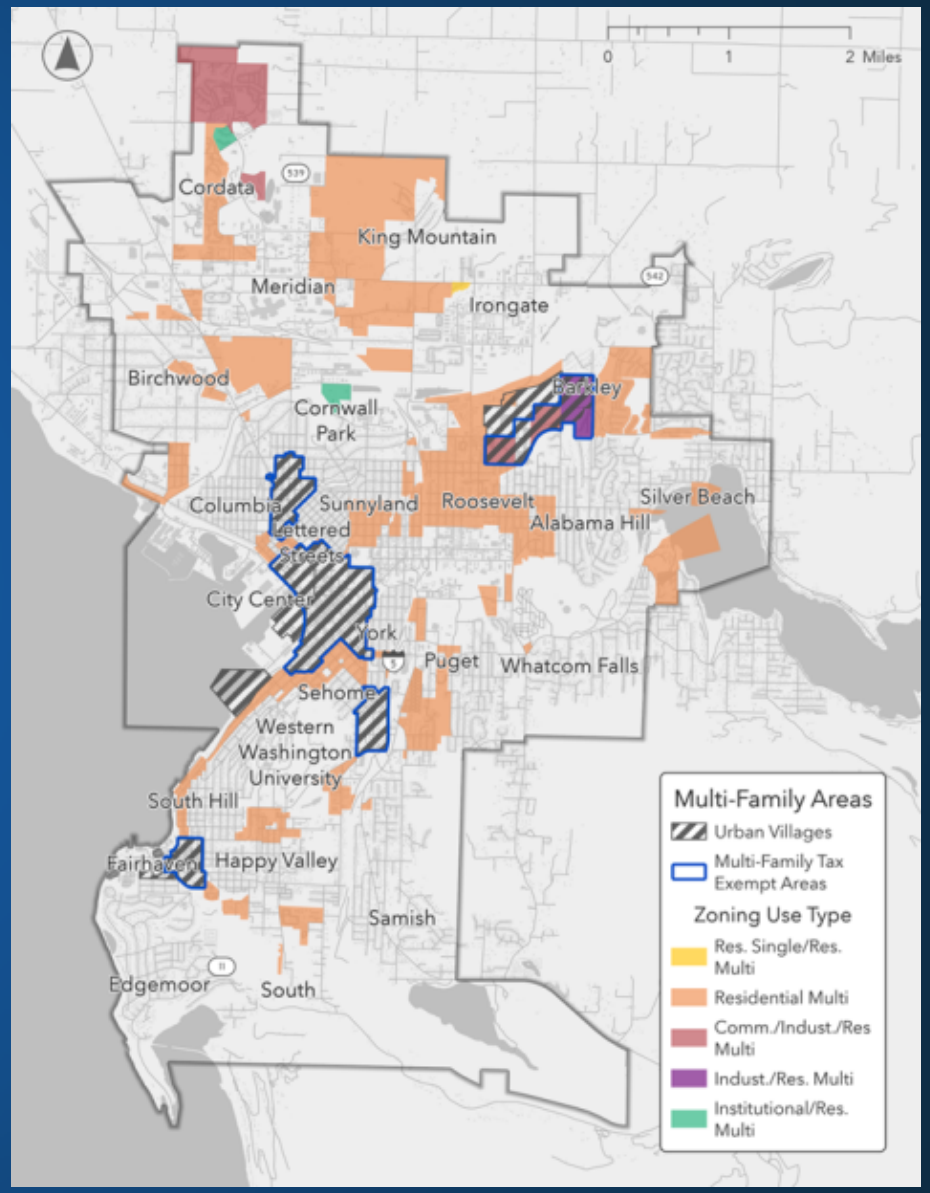
- Keep 8-year
- Change 12-year to the minimum Washington standards (20% at 115% AMI) in areas where the City would like to prioritize development.

Promote development of affordable units

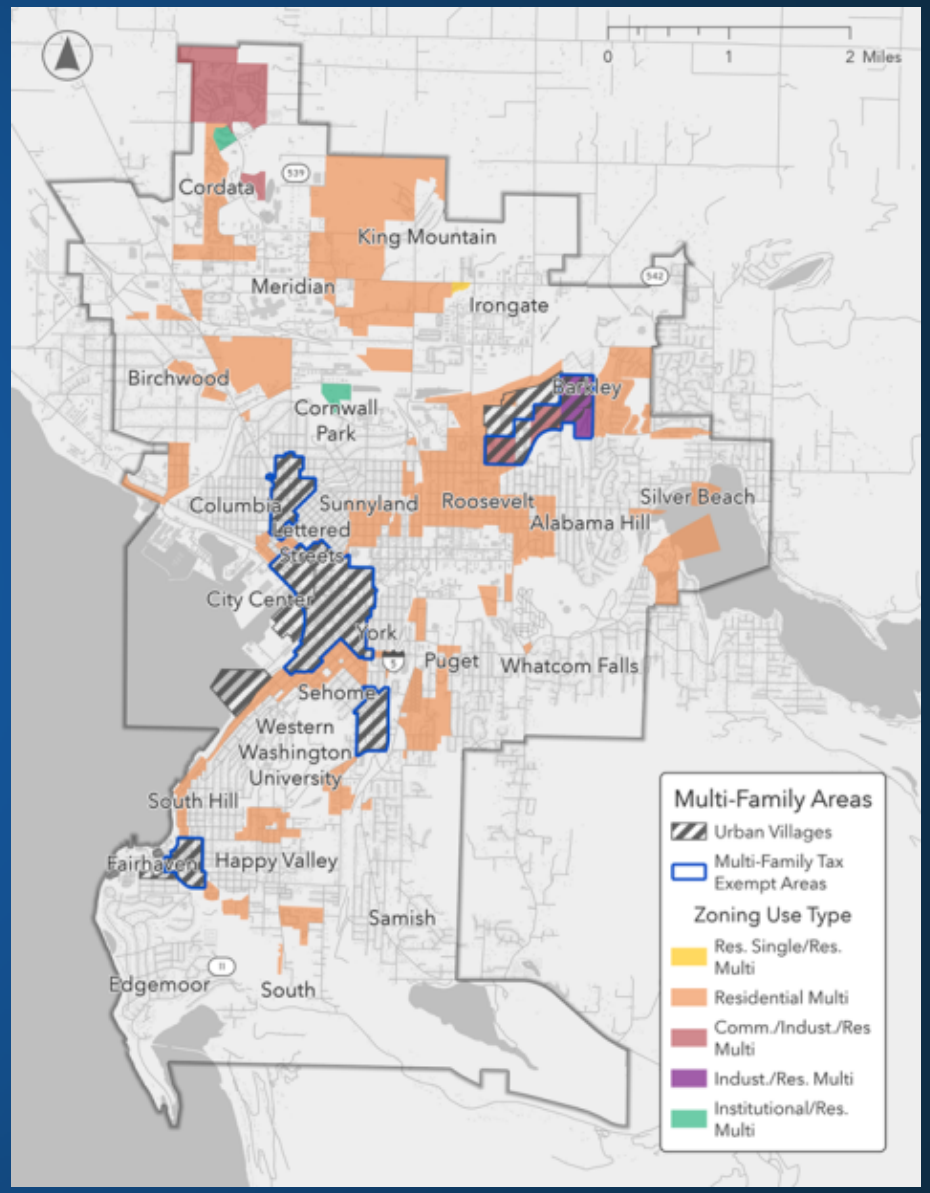
- Sunset 8-year
- Expand program locations for 12-year program and change affordability minimums
- For the 12-year program, consider 2-tiered system:
  - Higher rent areas, 20% at 115% AMI
  - Lower rent areas, 20% at 100% AMI

Staff Recommendations

- Update the code today assuming the market will adjust.
- Continue 8-year program to direct development to Downtown, Old Town, Fountain and Samish Way.
- Adopt the State's allowance for a 12-Year MFTE extension using the threshold of 20% of the units at 80% AMI as a starting point.



- **12-Year Program: To p**romote more affordable housing:
  - Change the 12-year MFTE program AMI affordability requirements.
  - Expand target areas beyond urban villages.
  - Revise Bellingham's program to minimize displacement risk and impacts to tenants.



City Council Agenda Bill

24256

Bill Number

Subject: **A Resolution Directing the Administration to Create a Limited Term Keep Washington Working Act (KWW) Advisory Work Group to Study the Act, Advise the City on Compliance, and Recommend Related Policy Considerations**

Summary Statement: City leaders are committed to ensuring that Bellingham is a place where the rights and dignity of all residents are maintained and protected. This item proposes the creation of a limited-term advisory work group to examine the City's compliance with the Keep Washington Working Act (KWW), established in 2019 to honor the vital role of immigrants in the workplace and our state's economy, and ensure Washington remains a place where the rights and dignity of all are protected. The purpose of the proposed work group is to research, discuss and arrive at a shared understanding of the City's actions to achieve and maintain ongoing compliance with the KWW, and report findings and recommendations to the City. The work group would include community members with lived experience and/or connections to the immigrant community in Bellingham and people with experience and training in specified fields relating to the goals and requirements of the KWW.

Previous Council Action: **Resolution 2017-10, Affirming the Safety of All People Residing in Bellingham; Ordinance 2017-02-008, Relating to City Policy with Respect to Immigration Enforcement, Equal Protection, and Equal Provision of City Services Regardless of Immigration Status and Creating a New Chapter of the Bellingham Municipal Code Regarding Such Matters; Bellingham Municipal Code Chapter 2.25, Equal Protection and Provision of Services Regardless of Immigration Status; Immigration Advisory Board established by Ordinance 2019-11-033, modified composition of the board by Ordinance 2021-03-009, and suspended meetings of the board by Ordinance 2024-02-006**

Fiscal Impact: **Staff time and approximately $35,000 in professional services to support the work group anticipated in the Mayor's 2025 proposed budget**

Funding Source: **General Fund**

Attachments:
1. DRAFT RESOLUTION
2. PATHS TO COMPLIANCE: THE EFFORT TO PROTECT IMMIGRANT RIGHTS IN WA STATE
3. FACILITATING SUCCESSFUL COMMUNITY ENGAGEMENT WITH CITY ADVISORY GROUPS

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	09/30/2024	Pass Resolution	Council Member Hannah Stone	20 minutes

Recommended Motion: Move to pass resolution.

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Janice Keller, Deputy Administrator

Council Action:

Reviewed By	Department	Date
Janice L. Keller	Executive	09/25/2024
Alan A. Marriner	Legal	09/25/2024
Kimberley J. Lund	Executive	09/25/2024

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLINGHAM, WASHINGTON DIRECTING THE ADMINISTRATION TO CREATE A LIMITED-TERM KEEP WASHINGTON WORKING ACT (KWW) ADVISORY WORK GROUP TO STUDY THE ACT, ADVISE THE CITY ON COMPLIANCE, AND RECOMMEND RELATED POLICY CONSIDERATIONS

WHEREAS, it is the policy of the City of Bellingham (COB or the City) that all people are valued, have inherent liberty interests, and should be afforded dignity and respect regardless of status or identity including race, gender, sexual orientation, religion, immigration status, national origin or ethnic origin; and

WHEREAS, on February 13, 2017, the Bellingham City Council passed Resolution #2017-10, a *Resolution Affirming the Safety of All People Residing in Bellingham*; and

WHEREAS, on February 27, 2017, the Bellingham City Council passed Ordinance# 2017-02-008, an *Ordinance of the City of Bellingham, Washington Relating to City Policy with Respect to Immigration Enforcement, Equal Protection, and Equal Provision of City Services Regardless of lmmigration Status and Creating a New Chapter of the Bellingham Municipal Code Regarding Such Matters*; and

WHEREAS, the Bellingham Municipal Code includes Chapter 2.25, Equal Protection and Provision of Services Regardless of Immigration Status; and

WHEREAS, all residents, including immigrants, can strengthen public health and safety, education, and the economic wellbeing of our community; and

WHEREAS, on May 21, 2019, the Governor of the State of Washington signed Engrossed Second Substitute Senate Bill 5497 (E2SSB 5497) which passed the Legislature with bipartisan support, an *Act Relating to Establishing a Statewide Policy Supporting Washington State's Economy and Immigrants' Role in the Workplace* (Keep Washington Working Act); and

WHEREAS, the Keep Washington Working Act (KWW) was enacted in multiple Chapters of the RCW, including the Washington Mutual Aid Peace Officers Powers Act (Chap. 10.93), as well as those governing the Attorney General's Office (Chap. 43.10) and Administrative Departments and Agencies (Chap. 43.17); and

WHEREAS, KWW made numerous changes to state law for the stated purpose of "ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working;" and

WHEREAS, in passing KWW, the Legislature determined that a person's immigration status, presence in the country, or employment alone is not a matter for police action—reinforcing that the federal government bears the primary jurisdiction to enforce federal immigration law; and

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WHEREAS, KWW restricts the extent to which local law enforcement agencies (LEAs) may participate in the enforcement of federal immigration laws; and

WHEREAS, KWW prohibits local LEAs from asking for or collecting information about a person's immigration or citizenship status, or place of birth—unless there is a connection between that information and an investigation into a violation of state or local criminal law; and

WHEREAS, unauthorized presence in the United States is governed by federal law and is not, by itself, a crime; and

WHEREAS, KWW prohibits local law enforcement from detaining someone solely for the purpose of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request; and

WHEREAS, Bellingham and Whatcom County operate the 911 emergency telephone system, called What-Comm; the initial call receiving site is located in Bellingham, and is responsible for dispatching almost all municipal law enforcement agencies in Whatcom County; and the Bellingham Police Department (BPD) operates the What-Comm Dispatch Center; and

WHEREAS, all fire and medical related calls are forwarded to the Fire Dispatch Center located at Bellingham Fire Department's Broadway Street Station, and is responsible for dispatching all municipal fire departments and fire districts in Whatcom County; and the Bellingham Fire Department operates the Prospect Fire Dispatch Center; and

WHEREAS, What-Comm and Prospect Fire dispatch law enforcement or police services, fire, and emergency medical services for Bellingham, Blaine, Everson, Ferndale, Lynden, Nooksack, Nooksack Tribal, Lummi Nation, Sumas, and Whatcom County Sheriff's office; and

WHEREAS, KWW protects the privacy and civil rights of all residents, including immigrants; and

WHEREAS, the Mayor, as the chief executive officer of the City, shall ensure compliance with KWW, which may include alignment of departmental policies, procedures, and practices of the City; and

WHEREAS, on November 4, 2019, the City adopted ordinance No. 2019-11-033, created a Chapter 2.26 of the Bellingham Municipal Code, and established the Immigration Advisory Board (IAB) to review and evaluate existing policies and analyze City data to determine compliance with KWW; and

WHEREAS, the City collects data regarding any and all contact between the COB and ICE or CBP, and disseminates the data on a monthly basis to help monitor compliance with KWW; and

WHEREAS, the IAB has recommended that the City collect more comprehensive data

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regarding contacts between BPD, What-Comm and federal immigration agencies such as ICE and CBP, to include data regarding the final outcome of these contacts; and

WHEREAS, the IAB has recommended that What-Comm contracting partner agencies be required to adhere to BPD standards of conduct, practice and procedure; and

WHEREAS, the IAB has recommended that the What-Comm interlocal agreement require contracting partner agencies to comply with KWW pursuant to state law; and

WHEREAS, the presence of CBP Border Patrol during the encampment clean-up that took place on January 28, 2021, raised some questions regarding City policy for interagency responses; and

WHEREAS, on May 12, 2022, the Northwest Immigrant Rights Project (NWIRP), Columbia Legal Services, and the American Civil Liberties Union (ACLU) of Washington Foundation sent a letter to Whatcom County Sheriff, Whatcom County Prosecuting Attorney, Bellingham Police Chief, Bellingham City Attorney, and What-Comm 911 regarding *Implementation of the Keep Washington Working Act* with a call to *Cease and Desist Inconsistent Policies*; and

WHEREAS, the cease-and-desist letter highlighted that KWW prohibits law enforcement from sharing *non-publicly available personal information about an individual*, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities in a noncriminal matter, except as required by state and federal law. RCW 10.93.160(5); and

WHEREAS, the IAB has recommended that City policy require language access for all emergency response; and

WHEREAS, the cease-and-desist letter highlighted that KWW also prohibits local law enforcement agencies (*LEAs*) from entering or renewing a contract for the provision of language services from federal immigration authorities as well as the acceptance of any language services from such for free or otherwise. RCW 10.93.160(13); and

WHEREAS, the City responded to the cease-and-desist letter on July 27, 2022; confirmed that the City and What-Comm may provide personal information to immigration authorities in criminal matters and when required by state or federal law; updated What-Comm and Bellingham Police Department policy manuals to prohibit contacting or using CBP for interpretation services; trained all What-Comm employees on the utilization of approved and contracted interpretation services; and removed outdated language from the interlocal agreement which is obsolete and left over from when Sumas used to contract its police dispatch to CBP; and

WHEREAS, KWW requires all Washington law enforcement agencies to (1) adopt policies consistent with those published by the Office of the Attorney General (AGO), or (2) notify the AGO that they are not adopting the necessary changes, state the reasons why they are not doing so, and provide the AGO with a copy of the agency's policies that ensure compliance with

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KWW; and

WHEREAS, BPD provided the AGO with a copy of Policy 417 (*Immigration Violations*) and Policy 331 (*Limited English Proficiency Services*) in response to KWW policy requirements; and

WHEREAS, the purpose of Policy 417 is to provide guidelines to members of the BPD regarding enforcement of immigration laws; and

WHEREAS, the purpose of Policy 331 is to provide guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d); and

WHEREAS, the City has a substantial and compelling interest in ensuring that Bellingham is a place where the rights and dignity of all residents are maintained and protected regardless of status or identity including immigration status, national origin or ethnic origin; and

WHEREAS, the University of Washington's Center for Human Rights, UWCHR, released a report on KWW compliance across the state on August 1, 2024, and recognizes Bellingham's efforts to establish KWW-compliant policies. It also concludes that statewide "Continued monitoring of on-the-ground practices will remain essential to ensure true compliance with the civil rights protections promised in our federal and state laws." Addendum A: *Paths to Compliance: The Effort to Protect Immigrant Rights in Washington State*

WHEREAS, the City desires to form a limited-term advisory work group utilizing the assistance and advice of members of the immigrant community, and representatives from the City Council, Mayor, City Attorney, Bellingham Police Department, Bellingham Fire Department, and What-Comm 911 Dispatch; and

WHEREAS, the purpose and mission of said work group is to evaluate existing City policies for compliance with KWW; to analyze policy considerations, and the related costs and benefits thereto; and to report findings and recommendations to the City; and

WHEREAS, the City of Bellingham is committed to compliance with and to the spirit of the Keep Washington Working Act

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM THAT:

SECTION 1. Advisory Work group
The Bellingham City Council directs the Mayor to appoint a volunteer limited-term Keep Washington Working Act (KWW) Advisory Work group, ("the Work group" or "KWW Work group"). The purpose of the work group is to research, discuss and arrive at a shared understanding of the City's actions to achieve and maintain ongoing compliance with KWW.

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The work group shall consist of not less than 5 and not more than 9 community members comprised of the following:

a. Lived Experience: At least 3 local residents with general backgrounds or lived experience with strong ties or direct connections to the immigrant community in Bellingham.

b. Community Connections: At least 1 but not more than 3 individuals with experience and training in interpretation/translation, human resources, employment/labor, emergency management, medical services, social services, police services, first response or similar field. Individuals in this area shall not represent the views of their employer.

c. Legal Education: At least 1 but not more than 3 individuals with legal experience and training in immigration, human rights, civil liberties, social services, employment, municipal operations or similar fields. Individuals in this area shall not represent the views of their employer.

d. In the event of a resignation or vacancy, the position will be filled by Mayoral appointment. Unexcused absences of 2 consecutive meetings shall be considered a resignation from the Work group. Substitutes or alternates shall not be allowed for any member.

e. Elected officials and persons employed by the City of Bellingham shall not be appointed to the Work group but may serve as non-voting ex-officio members at the discretion of the Mayor. City representatives from the Mayor's Office, City Council, Office of the City Attorney, What-comm 911 Dispatch, Police Department and Fire Department may serve on and support the Work group as non-voting ex-officio members. Other individuals or organizations identified by the Mayor may also serve as non-voting ex-officio members. Council confirmation is not required for non-voting ex-officio members.

The administration shall advertise, through usual and customary means, for applications from interested individuals, residents, community members, and professionals. The Mayor shall give preference to residents of the City in considering appointments. Consideration of a diverse and inclusive group reflecting the diverse demographics of immigrants within the City shall be made in forming the Work group.

Interpretation and translation services will be provided as needed to support full participation by all Work group members.

The Mayor and administration shall support the Work group by appointing members, assigning staff, coordinating and implementing communications strategies, and general administration.

The Council's role is to confirm or reject appointments and receive and consider the advice

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and recommendations of the Work group.

The Work group members shall be appointed by the Mayor and confirmed by the City Council. Individuals may be removed by the Mayor.

SECTION 2. Facilitator -
Council directs the Administration to contract with an outside entity or individual to serve as a neutral Facilitator to support and guide the Keep Washington Working Act Advisory Work group. The Facilitator will chair the meetings.

A City employee will prepare agendas, meeting minutes and reports, and otherwise generally support the Facilitator and the Work group.

Funding for the facilitator shall be from 2025 budget authorization.

SECTION 3. Work group Scope of Work -
The Keep Washington Working Act Advisory Work group shall take the following actions and present a final report and recommendations to the City Council:

a. Assist with development of a Scope of Work for the Work group to address the following items:

   i. Review the Model Policies, and Training Recommendations for State and Local Law Enforcement Agencies issued by the Washington State Office of the Attorney General.

   ii. Compare the AGO Model Policy with BPD Policy 417 and Policy 331 for compliance with KWW.

   iii. Review the What-Comm 911 interlocal agreement, and contracting partner agencies' related policies, practices and procedures, in relation to compliance with KWW.

   iv. Review COB Federal Contact Data and assess the final outcome or result of the contact if possible.

   v. Review BPD policies and procedures regarding interagency responses.

   vi. Review City's language access policy for emergency response and related contact with law enforcement or first responders.

   vii. Review City policies, publications and other public communication to ensure that the term "citizen" is only used when appropriate as a legal status.

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viii. Evaluate existing City policies and make specific recommendations for improvement in relation to City compliance with KWW, including ensuring on-going compliance.

b. Meetings will be facilitated by a neutral, outside, professional facilitator, selected using the City's usual and customary means with a preference for those demonstrating lived experience and/or with direct connections to the immigrant community in Bellingham. Selection and contract award shall be made by the Mayor or their designee and not by the Work group. The Mayor or their designee shall be the administrator of the contract between the Facilitator and the City.

c. Participate in discussions with City staff and the contracted Facilitator as the scope of work is completed.

d. A final report shall be drafted and written by the Work group to include recommendations if needed. Upon completion of the final report, the Work group shall submit the final report to the City Council Committee of the Whole for further consideration by the Council.

e. The cost of the contracted facilitator services shall be authorized in the City's 2025 budget.

SECTION 4. Quorums and Decisions and Meetings

a. The Work group shall be comprised of 5 to 9 voting members as appointed by the Mayor.

b. Quorum - Five voting members of the Work group shall constitute a quorum for the transaction of business if the Mayor appoints either eight or nine persons. Four voting members of the Work group shall constitute a quorum if the Mayor appoints either 6 or 7 persons. Three voting members of the Work group shall constitute a quorum if the Mayor appoints 5 persons to the Work group. No meeting shall be held without a quorum being present.

c. The Work group shall not establish subgroups.

d. Decision Making – Work group members shall strive for consensus on decisions and recommendations made to the Council. In the absence of consensus, the Work group shall make decisions and recommendations by simple majority vote of the quorum. In the event of a simple majority vote, the minority votes will be allowed to submit a written dissenting opinion to be included in recommendations made to the Council.

e. Attendance may be in person or remote, provided the member is able to listen, speak, fully participate and view all portions of the meeting.

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f. The Work group shall meet every other month in coordination with the Staff and Facilitator schedules. Each bimonthly meeting shall not exceed 120 minutes in duration.

g. The Work group shall terminate and dissolve upon presentation of the final report and policy recommendations described in Section 3a to City Council.

h. The Work group shall advise and assist the City on policy issues as defined in previous sections. In an advisory role to the City, the Work group shall use the following in conducting business:

i. Work group meetings shall be open to the public for observation but shall neither be recorded (audio or video) nor rebroadcast by the City. Meetings may be live streamed using the City's usual and customary means.

ii. Notice of meetings and agendas shall be published using usual and customary means of the City.

iii. Summary meeting minutes shall be prepared and provided to the public using usual and customary means of the City. Updates and communications about the progress of the work group shall be issued by the Mayor's Office only.

iv. The work of the Work group is limited to the scope described in this resolution. The Work group shall have no authority to set policy, direct actions of staff, communicate on behalf of the City, or otherwise replace or supplant any authority reserved for the City Council or Mayor.

v. Work group meetings shall not include public comment periods, nor shall the Work group be obligated to seek public comment on the work outlined in this resolution. Public comment and input on the policy advice and recommendations of the Work group may be accepted by the City after the completion of the work and presentation to the City Council.

vi. The Work group may consider inviting its own members or outside individuals or entities to make presentations to the Work group to establish a base of common knowledge, develop a shared understanding and increase knowledge base concurrent with other elements of work contained in this resolution.

SECTION 5. Work group Member Roles and Responsibilities

Addendum B: *Facilitating Successful Community Engagement with City Advisory Groups: Expectations of advisory group members and City of Bellingham officials*

This document is posted on the City's Boards and Commissions webpages, and is available as a webpage and as a printable copy here: https://cob.org/gov/public/bc/facilitating-successful-

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

community-engagement-with-city-advisory-groups

SECTION 6. Schedule
The Work group shall take the time it needs to address the work plan, with a shared commitment to proceed efficiently to create a final report following the general schedule outlined herein. . The Work group membership should be confirmed by City Council in January 2025. There will be an update on the Work group's progress presented to Council mid-year 2025. All work of the Work group and Facilitator, including presentation of the final report and related recommendations, shall be completed within the first quarter of 2026.

PASSED by the Council this _____ day of _____, 2024.

_____
Council President

APPROVED by me this _____day of _____, 2024.

_____
Mayor

ATTEST:

_____

Finance Director

APPROVED AS TO FORM:

_____
Office of the City Attorney

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270



PATHS TO COMPLIANCE

THE EFFORT TO PROTECT IMMIGRANT RIGHTS IN WASHINGTON STATE

UNIVERSITY *of* WASHINGTON
CENTER FOR HUMAN RIGHTS
HENRY M. JACKSON SCHOOL OF INTERNATIONAL STUDIES

Paths to Compliance:
The Effort to Protect Immigrant Rights in Washington State

Text featured on the front cover are excerpts from documents reviewed in this report, obtained by the University of Washington Center for Human Rights through Freedom of Information Act requests.

University of Washington
August 2024

The University of Washington Center for Human Rights is committed to interdisciplinary excellence in the education of undergraduate and graduate students in the field of human rights; promoting human rights as a core area of faculty and graduate research; and engaging productively with local, regional, national, and international organizations and policymakers to advance respect for human rights.

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INTRO

In 2019, the Washington state legislature passed a landmark "sanctuary" law aimed at safeguarding immigrant rights, the Keep Washington Working Act (KWW).[1] In doing so, it prohibits many once-routine practices that, in the past, funneled many Washington state residents into contact with federal immigration enforcement.

While many migrant justice organizations worked hard to secure the law's passage, in achieving victory they also faced an important challenge. The law's requirements are sweeping, but the provisions for its enforcement – its "teeth" – are quite modest. Unlike the Sanctuary Promise Act subsequently passed in Oregon,[2] Keep Washington Working does not task any agency with monitoring or responding to violations of the law. And it does not contain a private right of action, which would incentivize efforts to secure compliance by allowing individuals or organizations to recover damages from jurisdictions that violate the law.[3] Indeed, in the early days of the law, some jurisdictions openly indicated their intention to flout its provisions, signaling that implementation challenges were likely ahead.[4]

> **SINCE 2020 THE UWCHR HAS EXAMINED THE LAW'S IMPLEMENTATION, BOTH IN POLICY AND PRACTICE, ACROSS WASHINGTON**

In this context, it is not easy to know whether the law has accomplished the changes it promised for Washington's communities. For this reason, since 2020 the UWCHR has examined the law's implementation, both in policy and practice, across Washington.[5] While real-time monitoring of conditions in communities across the state exceeds our capacity, we conducted this work by sampling areas and practices identified as high priority concerns by partner organizations, including the Washington Defender Association, Northwest Immigrant

1 Keep Washington Working was part of a suite of legislative efforts to address immigrant rights in our state, including the Courts Open to All Act (2019), implemented in RCW Chapter 2.28 sections 300-340; Keep Washington Working Act (2020), implemented in RCW 10.93.160. The Legislature also passed two significant bills concerning private, for-profit detention facilities, HB 1090 (2021) and HB 1470 (2023), implemented in RCW Chapter 70.395, but these have been hamstrung by legal challenges, and are not addressed in this report.

2 For more information on Oregon's Sanctuary Promise Act and related laws, see: https://www.doj.state.or.us/oregon-department-of-justice/civil-rights/sanctuary-promise/

3 Efforts to address this in the 2021-22 and 2023-24 legislative sessions foundered in committee. During the 2021-2022 session of the Washington State Legislature, the proposed bill HB 1202 would have changed this by establishing a private cause of action for violations of KWW as enacted in RCW 10.93.160, and allowing individuals to sue for damages and awarding of attorney fees; among other provisions relating to accountability for police misconduct. The proposed bill would also have clarified the Washington State Attorney General's authority to investigate violations of KWW. However, the bill died in committee. During the 2023-2024 session, proposed bill HB 1445 would have clarified the state Attorney General's existing authority to look into patterns of KWW violations at a police department or jail, and if needed, bring suit.

4 Lilly Fowler, "Despite Washington state's new sanctuary law, some local officials still cooperate with ICE and Border Patrol", December 9, 2019: https://crosscut.com/2019/12/despite-washington-states-new-sanctuary-law-some-local-officials-still-cooperate-ice-and

5 UWCHR has also monitored compliance with the 2019 Courts Open to All act, which sought to halt the practice of immigration enforcement at courthouses, as documented in our 2019 research report, *Justice Compromised: Immigration Arrests at Washington State Courthouses*. This law appears to have been successfully implemented; in large part due to a 2019 lawsuit by the Washington State Attorney General's Office, ICE and CBP appear to have halted courthouse arrests in the state. Public records suggest that ICE, CBP, and other state and federal agencies have complied with the law's requirement to sign in when entering court facilities. Public records also document communication and information sharing between county prosecutors and federal immigration authorities in some jurisdictions, but not in ways that directly violate the limited provisions of COTA.

Rights Project, ACLU of Washington, Columbia Legal Services, OneAmerica, and Washington Immigrant Solidarity Network, and using public records requests to document patterns of concern.[6] We also rely on analysis of quantitative data obtained from ICE through requests and litigation under the federal Freedom of Information Act to track enforcement trends in our state in ways that shed light on shifting practices. (We anticipate publication of a full report on those trends in the weeks ahead.)

Our first report on KWW's impact, "Protecting Immigrant Rights: Is Washington's Law Working?", was published in August 2021, and identified areas of progress as well as concern. Today, we offer an update on the law five years after its entry into force. While concerns about lack of compliance remain, and we note some of these below, we also highlight some of the behind-the-scenes ways that advocates in civil society and government have acted to ensure the law is effectively securing protections for the rights of migrants in Washington.[7]

KWW VIOLATIONS AND PATHS TO COMPLIANCE

The passage of Keep Washington Working mandated an extensive set of changes to what had been routine practices of many state and local government agencies in Washington. We do not attempt an exhaustive accounting of the law's original provisions here, but focus on those aspects of the law most central to protecting migrant rights.[8] Among these, KWW prohibits local and state government agencies from collecting or sharing personal information, including birthplace and immigration or citizenship status, with federal immigration authorities, except in cases where necessary as part of an ongoing criminal investigation or pursuant to a court order or judicial warrant. It also bans the detention of individuals solely on the basis of suspected civil immigration violations, and prohibits contracts between local jails and federal immigration authorities. In the below, we discuss each of these key areas of policy and the extent to which local and state authorities appear to have shifted to bring their practices into compliance with the law.

DETENTION CONTRACTS

In December 2021, KWW's provisions prohibiting local contracts for federal civil immigration detention went into effect. As far as UWCHR is aware, no such contracts remain in place today.

Unfortunately, some counties were slow to implement the requirements of the law. Under public scrutiny, however, they eventually relented. For example:

- Officials in Okanogan County initially expressed an intention to renew the county's detention agreement with U.S. Border Patrol[9]; yet on January 25, 2022, Okanogan County Undersheriff Aaron Culp informed UWCHR that the Sheriff had "opted to not pursue the [agreement] and it was canceled on 12/31/2021."[10]

6 UWCHR's 2021 report on KWW focused on 13 priority counties: Adams, Benton, Chelan, Clark, Cowlitz, Franklin, Grant, King, Okanogan, Pierce, Skagit, Spokane, and Yakima. Further research has included additional jurisdictions where community members and partner organizations have reported problematic practices.

7 Primary research for this report was conducted during 2021-2023; due to the broad scope of the policies analyzed here, this report is intended to be illustrative rather than comprehensive. This report was authored by UWCHR with research from Nancyrose Houston, Priya Hendry, Tara Saleh, and Thomas Kaplan.

8 For a more detailed explanation see the text of the law as passed by the Washington State Legislature: http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/Senate/5497-S2.SL.pdf

9 Lilly Ana Fowler, "WA law enforcement continues to violate Keep Washington Working Act by feeding info to ICE", *KNKX Public Radio*, August 11, 2021: https://www.knkx.org/news/2021-08-11/wa-law-enforcement-continues-to-violate-keep-washington-working-act-by-feeding-info-to-ice

10 Email correspondence with UWCHR.

- In August 2022, a public records request by UWCHR for "current" detention contracts revealed that Spokane County Corrections maintained a 2016 contract with U.S. Border Patrol permitting the use of Spokane County Jail to detain people charged with federal administrative offenses or those awaiting immigration hearings or deportation proceedings. Records show that at least 36 people were detained for a total of 78 days under this contract from January through July 2022, with the county sending monthly invoices to U.S. Border Patrol for a total of $9516 (at the contract rate of $122 per inmate per day). Additionally, public records obtained by UWCHR document several instances in which Spokane County detained people solely on the basis of detainers or administrative warrants. In September 2022, NWIRP and the ACLU-WA sent a letter to Spokane County informing it that its contract with U.S. Border Patrol was in violation of KWW. In January 2023, the Spokane Board of County Commissioners voted unanimously to terminate the county's Memorandum of Agreement with Customs and Border Protection.[11]

> **KWW ALSO PROHIBITS JAILS FROM COLLECTING CERTAIN INFORMATION ABOUT INMATES, INCLUDING PLACE OF BIRTH OR IMMIGRATION STATUS. DESPITE THIS, MULTIPLE JAILS NEGLECTED TO UPDATE THEIR BOOKING PRACTICE.**

COLLECTING PROHIBITED INFORMATION DURING JAIL BOOKING

KWW also prohibits jails from collecting certain information about inmates, including place of birth or immigration status.[12] Despite this, multiple jails neglected to update their booking practices following the law's passage. For example:

- Booking forms used by Whatcom County Jail, sought by UWCHR in response to a request by public defenders in the county, included fields for "Born" (place of birth) and "Citizenship," with 41 examples of collection of this information from between 5/13/22 and 5/17/2022. Following inquiries by local public defenders, a special order was sent by Chief Wendy Jones to staff on 6/24/22 prohibiting the collection of birthplace or citizenship status. Staff were told to enter "unknown" or "XX" for these fields.
- UWCHR obtained documents revealing that Kent City Jail included place of birth and citizenship fields in its electronic booking system as recently as May 2022 (see page 3 of this booking system screenshot). In response to a letter from NWIRP and ACLU-WA[13] regarding this and other practices violating KWW (see below) Kent City Attorney Tammy White defended the City's policies as aligned with its duty to inform arrested foreign nationals of their rights under the Vienna Convention on Consular Notification. In August 2023, Assistant

11 Spokane Board of County Commissioners, 01/24/2023, Resolution 2023-0053: "In the matter of terminating a Memorandum of Agreement between the United States Department of Homeland Security, Customs and Border Protection, United States Border Patrol – Spokane Sector and Spokane County." https://spokanecowa.portal.civicclerk.com/event/794/files

12 See RCW 10.93.160 (4): "State and local law enforcement agencies may not: (a) Inquire into or collect information about an individual's immigration or citizenship status, or place of birth unless there is a connection between such information and an investigation into a violation of state or local criminal law; or
(b) Provide information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement, except as required by law."

13 Because records involving potential KWW violations frequently include sensitive personally-identifiable information, we have opted to exclude attached exhibits from this and other KWW compliance violation letters cited in this report.

Attorney General Mitchell Riese wrote a letter to the City of Kent noting the City's collection of place of birth and citizenship information and clarifying the requirements of KWW: "There is no conflict between KWW's prohibition on the inquiry into, and collection of, immigration or citizenship status, and the Vienna Convention. That is because nothing in the Vienna Convention requires that law enforcement agencies affirmatively inquire as to the nationality, or immigration status, of an arrestee, and KWW specifically prohibits such an inquiry." The City of Kent reviewed its policies and in December 2023, submitted an updated policy to the Office of the Attorney General explicitly codifying various provisions of KWW, including informing all detained people in writing of their rights to consular notification and the right to refuse to disclose information about their nationality, citizenship, or immigration status; prohibiting inquiries about immigration or citizenship status or place of birth; and instructing jail staff to input "Unknown" or "XX" values in database fields for immigration or citizenship status.

USE OF DETAINERS AND IN-CUSTODY INTERVIEWS

Detainers, also known as "immigration holds," were historically used by ICE/CBP to request that local jails keep individuals in custody beyond their release date or time to facilitate their apprehension by ICE/CBP. This resulted in direct hand-offs of individuals from local jails to ICE/CBP custody, raising constitutional concerns, since local and state governments lack the authority to deprive individuals of liberty without a judicial finding of probable cause. As numerous court cases – in Washington and beyond – resulted in strong rebukes against such practices,[14] many counties began to suspend the practices of holding individuals in custody based on ICE/CBP detainers even prior to the passage of KWW.

KWW is unequivocal in its prohibition of this practice, and UWCHR review of ICE data about apprehension sites suggests that for the most part, city and county jails in Washington state no longer engage in these direct hand-offs to ICE. Confirming this, however, is difficult, as the most detailed documentation of ICE detainer practices is contained in DHS I-213 "Record of Deportable/Inadmissible Alien" forms, which are not public.[15]

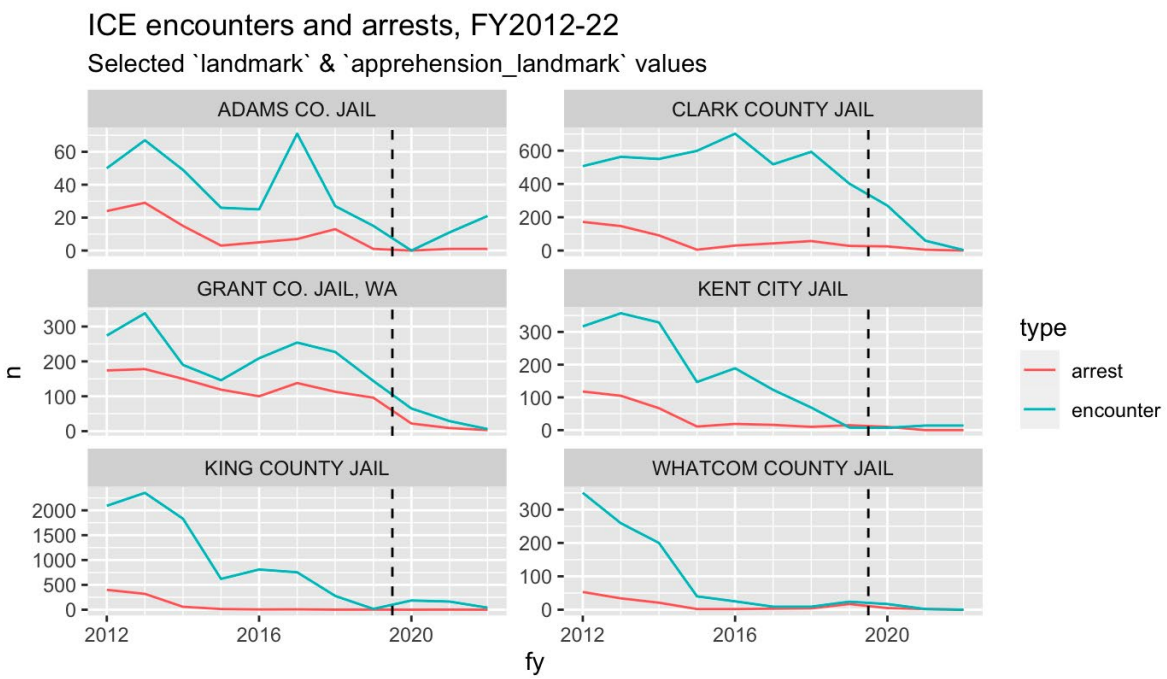
There are, however, exceptions, as the case of Rios v. Pierce County illustrates. In November 2019, U.S. citizen Carlos Rios was arrested on misdemeanor charges and illegally re-detained by Pierce County Jail in response to an ICE hold request. Mr. Rios was then released to employees of GEO Group and held for a week in the Northwest Detention Center,[16] in clear violation of KWW and his rights as a U.S. citizen. While KWW's limited "teeth" meant that Rios could not bring suit under KWW itself, the complaint in his case makes clear that the violation of KWW led directly to his unlawful detention, which resulted in a settlement award to Rios for damages.[17]

14 Such questions were underscored in litigation brought by the Northwest Immigrant Rights Project and Columbia Legal Services. For example, Yakima County agreed to pay damages and cease honoring detainers in February 2019. And Okanogan County officials, after also being sued over their use of detainers, told a reporter they began revising their own policies in response to Yakima's experience: see https://crosscut.com/2019/12/despite-washington-states-new-sanctuary-law-some-local-officials-still-cooperate-ice-and

15 UWCHR has obtained two collections of I-213s through FOIA litigation, but the most recent of these date only to late 2021. In other cases, e-mail records obtained via the state Public Records Act show that local jurisdictions have continued to receive detainer requests from ICE, but unless officials reply affirmatively to these requests, they rarely generate official documentation that establishes whether a detainer request was honored.

16 In this report, for ease of reference, we refer to the facility as the Northwest Detention Center, or NWDC. In September 2019, ICE renamed the facility "Northwest ICE Processing Center."

17 ACLU-WA, "Statement of NWIRP and ACLU-WA on the Settlement of Rios v. Pierce County", April 19, 2022: https://www.aclu-wa.org/news/statement-nwirp-and-aclu-wa-settlement-rios-v-pierce-county



The above charts illustrate the declining number of ICE encounters and arrests associated with selected local city and county jails in Washington state over recent years. While rates of arrests at these "landmarks" were already in decline prior to the passage of KWW in May 2019 (represented by the black dashed line), implementation of the law appears to be associated with further reductions of both encounters and arrests to near zero by U.S. Fiscal Year 2022 in each of these jurisdictions.

Relatedly, KWW prohibits jails from providing ICE/CBP officers access to non-public areas of their facilities in order to encounter or interview inmates in custody, unless officers present a court order or signed authorization by the inmate in question. Again, UWCHR review of ICE data about the locations of arrests and encounters suggests that such practices have declined significantly, though the decline predates the passage of KWW and may suggest an evolution in ICE/CBP's own practices more than the construction of a true "firewall" between Washington jails and immigration authorities.

INFORMATION SHARING BETWEEN LOCAL LAW ENFORCEMENT AND ICE/CBP

In response to growing constitutional concerns about jails' frequent practice of holding individuals beyond their release date to facilitate their apprehension by federal immigration authorities, ICE/CBP began to change the content of their detainer requests. While earlier versions of the detainer form asked state and local jurisdictions to hold inmates, later versions asked them instead to *notify* ICE/CBP prior to an inmate's scheduled release.

KWW bans the sharing of *non-public* information with federal immigration authorities for purposes of civil immigration enforcement.[18] While some jail booking and release information is routinely made public by local and county jails, information such as inmate date of birth is not.[19] Advocates argue that per KWW, even information which may be publicly available, such as release dates, should not be proactively shared with federal immigration authorities. However, records show that some local and county jails have continued to regularly share information with ICE and CBP. We detail several examples below.

CLARK COUNTY

UWCHR's initial report on KWW compliance and local investigative reporting by OPB documented widespread violations by Clark County Jail staff, including individuals flagged by jail staff for ICE solely on the basis of perceived nationality. Following the revelation of these practices, Assistant Attorney General Emily C. Nelson wrote to the Clark County Sheriff's Office[20] in November, 2021 raising concerns that, "since the effective date of the KWW (May 21, 2019), staff in your office contacted ICE deportation officers at least 311 times to share non-publicly-available information pertaining to approximately 954 individuals in custody at the Clark County Jail." The Assistant Attorney General's letter also noted, "the information we received indicates that some of your staff proactively contacted ICE to flag individuals in custody for potential civil immigration enforcement, based solely on their nationality or place of birth", and "It appears that when your staff receives civil immigration warrants or immigration hold requests from ICE, your staff members notify ICE agents of the exact day and time that the subject of the warrant or hold will be released from County Jail, to ensure that deportation officers are present to execute those warrants", among other concerns.

This letter led to a series of productive exchanges with the Clark County Sheriff's Office, which submitted revised policies for review by the Attorney General's Office. The CCSO also issued a January 2022 directive prohibiting the collection of birthplace or citizenship information by jail staff and clarifying other aspects of compliance with KWW. After a process of review and feedback, the new policies were submitted to and published on the Attorney General's Office's website in April, 2022.

GRANT COUNTY

In Grant County, prior UWCHR research and records obtained by the Attorney General's Office surfaced numerous practices that appeared to violate requirements of KWW, including the sharing of information about individuals sought by federal immigration authorities without the presentation of a judicial warrant from 2019 to 2021; and receipt of ICE detainers which appear to have resulted in civil immigration arrests at Grant County Jail, up to at least January of 2022.[21]

18 See RCW 10.93.160 (5): "State and local law enforcement agencies may not provide nonpublicly available personal information about an individual, including individuals subject to community custody pursuant to RCW 9.94A.701 and 9.94A.702, to federal immigration authorities in a non-criminal matter, except as required by state or federal law."

19 Other non-public information, such as inmate language or interpretation needs, could facilitate profiling by federal immigration agencies.

20 On January 1, 2023, authority for the Clark County Jail was separated from the Clark County Sheriff's Office and transferred to the county's newly established Jail Services Department: see Troy Brynelson, "Pay issues and finger-pointing: When the Clark County Jail left its sheriff", *Oregon Public Broadcasting*, January 26, 2023: https://www.opb.org/article/2023/01/26/pay-issues-before-clark-county-jail-separated-from-sheriffs-department/

21 For example, on January 14, 2022, ICE Deportation Officer Jaimie Waite forwarded an I-247 detainer request to an official at Grant County Jail; the only content of the email was the phrase "Thank you"; the attached I-247 form was not included in Grant County's public records response to UWCHR. Separately, ICE Enforcement and Removal Operations Law Enforcement Systems and Analysis Division (LESA) data obtained by UWCHR via FOIA request report an arrest of a Mexican male at "Grant Co. Jail, WA" on January 21, 2022 via ICE's Criminal Alien Program, which is responsible for targeting and apprehending people at local jails. Given the lack

On February 27, 2023, Assistant Attorney General Emily Nelson wrote to Grant County, "The records we reviewed indicate that since the effective date of KWW (May 21, 2019), staff for the Grant County Prosecutor's Office contacted federal immigration officials over 400 times to share non publicly available information pertaining to individuals in custody at the Grant County Jail. None of this information appears to have been provided in connection with an ongoing criminal matter. Rather, staff for the Prosecutor's Office appear to have proactively provided this information from 'in custody' lists and 'inmate event schedules' maintained by the Jail, which included inmate dates of birth, FBI numbers, home addresses, drivers' license numbers, and anticipated jail release dates.[22] Although these communications originated from the Prosecutor's Office, they routinely included staff from the Grant County Sheriff's Office. Further, our review identified repeated instances in which Sheriff's Office staff provided the anticipated release dates of jail inmates to federal immigration authorities, again without any apparent connection to a criminal matter." The letter also points to KWW violations in the Grant County Sheriff's Office Policy 428.5 (Information Sharing), which refers to 8 USC § 1373, a provision of federal law which prohibits local or state restrictions on maintaining citizenship information or sharing it with federal agencies. Other sections of Grant County Sheriff's Office explicitly implement provisions of KWW, including its prohibition on the collection of immigration or citizenship status and place of birth.[23]

In a series of replies, Grant County Prosecuting Attorney Kevin McCrae requested that the Attorney General's Office provide records substantiating its concerns. When records were provided, Prosecuting Attorney McCrae disputed that the county's actions violated KWW, but wrote on April 4, 2023 that the county had already modified some practices, stating, "we are no longer sending the in custody lists" and that Grant County Jail staff "do not act" on ICE detainers. The records obtained by UWCHR show that the Attorney General's Office and Grant County officials planned future meetings to discuss compliance with KWW, but do not confirm whether these meetings took place, or what the results of these meetings might have been.[24]

ADAMS COUNTY

In Adams County, UWCHR research surfaced several clear illustrations of similar information-sharing. As late as April 2023, for example, Adams County Jail[25] employees sent near-daily emails including as an attachment a "New in Custody" list to recipients including ICE and

of detail in records provided by both Grant County and ICE, it is impossible to determine whether these events are linked; or whether this or any of the 66 other ICE apprehensions reported by ICE as having taken place at Grant County Jail from the date of passage of KWW on May 21, 2019 through November of 2022 involved violations of KWW.

22 In an email to UWCHR in response to a draft of this report, Grant County Prosecuting Attorney Kevin McCrae noted that jail "in custody" lists and "inmate event schedules" themselves do not include the specific forms of non-public information cited in the Assistant Attorney General's letter. This clarification is well-taken; however, other Grant County records cited by the Assistant Attorney General in further correspondence with Grant County, as well as additional records obtained by UWCHR, include examples of proactive sharing of each of these categories of non-public information with federal immigration officials by Grant County officials from 2019 to 2021.

23 In an email to UWCHR, Grant County Prosecuting Attorney Kevin McCrae noted that the text of KWW itself cites 8 USC § 1373, writing, "The policy is simply statement that the County will follow verbatim a statute that the KWW expressly quotes and affirms." A June, 2019 memo prepared for the Washington State Attorney General's Office Keep Washington Working Workgroup, obtained by UWCHR via public records request, delves into the complexities of the interaction between state and federal law in this case.

24 In an email to UWCHR in response to a draft of this report, Grant County Prosecuting Attorney Kevin McCrae asserted that his office's discussion with the Attorney General's Office had concluded, and that the topic of the discussion was the Grant County Sheriff's Office policy manual.

25 Adams County Jail has been closed since May 2022 due to maintenance and staffing concerns; since then, people arrested in Adams County have reportedly been sent to jails in Benton and Franklin Counties. See Gabrie Davis, "Adams Co. working to address jail closure, maintenance needs", *Columbia Basin Herald*, September 25, 2023: https://columbia-basinherald.com/news/2023/sep/25/adams-co-working-address-jail-closure-maintenance-/

CBP agents. The list includes fields for "name", "date of birth", "charge", "interpreter (Spanish/yes/no)", "hold (yes/no)", and "other" (which may include information such as "posted bail" or "Spanish-speaking.")[26, 27]

Records reviewed by UWCHR also suggest that employees of the Adams County Sheriff's office engaged in proactive information-sharing, including facilitation of detainers, with ICE and CBP. On at least two occasions during February 2021 and January 2022, Adams County Sheriff employees sent detailed information about the arrests of multiple individuals, including dates of birth and other non-public information, to CBP agents;[28] on at least one further occasion, similarly private information was sent to ICE.[29] While these emails include little context regarding the motivation of this information-sharing the tenor of the communications suggest, at minimum, that cooperation was fluid and ongoing.[30]

For example, in one of the records received by UWCHR, dated February 2022, Adams County Sheriff Sgt. Solano agreed to actively participate in ICE enforcement activities. In response to a request by ICE Deportation Officer Christina Caballero, Adams County Sgt. Solano agreed to allow ICE officers to accompany county sheriffs conducting an address verification for a registered sex offender "so we may bring him into custody".

In light of these concerns, advocates reached out to express concerns to Adams County directly. On September 23, 2022 the ACLU-WA and NWIRP sent a letter to Adams County urging compliance with the law; they did not receive a response.

Subsequently, the Attorney General's office contacted Adams County, writing in a November 28, 2022 letter, "The records we reviewed indicate that since the effective date of KWW (May 21, 2019), staff in your Office contacted federal immigration officials at least 212 times to share non publicly available information pertaining to hundreds of individuals in custody at the Adams County Jail. The nonpublic information shared included dates of birth, FBI numbers, home addresses, drivers' license numbers, and anticipated jail release dates. None of this information appears to have been provided in connection with an ongoing criminal matter. In fact, the majority of the time, Adams

26 Other records reveal both sides' interest in these email bulletins. On August 11, 2022, ICE Deportation Officer Kevin Wilks wrote in response to a New in Custody list, "Due to staffing levels I have been assigned Adams County Jail for coverage by this office [ICE Spokane sub-office]. Could you please remove DO Jason Mcintosh and add me to this email thread." On August 12, 2022, Adams County Jail Commander Nick Williams forwarded this message to several colleagues, commenting, "FYI FOR EMAILING."

27 For example, at 7:25 am on September 23, 2022, Adams County Jail Corporal Evan Armstrong sent the "New In Custody" document to Deportation Officer Kevin Wilks, sharing the name, date of birth, charges, and Spanish interpretation status of a new inmate. At 9:03 am that same day, Spokane Border Patrol officer Tracy Sullivan emailed Adams County a detainer for an individual by the same name. The records made available to UWCHR are insufficient to determine whether the detainer was lodged in response to the notification, and also insufficient to determine whether the jail held the man in response to the detainer, though the available communications certainly suggest such a transaction. Adams County declined to provide a copy of the actual detainer, claiming to no longer have the document. When a UWCHR researcher sought copies of records which would show whether Adams County was honoring detainers, a county jail employee responded: "We do not have the copy in the jail jacket. We only keep it till they leave, then the packet is sent out to [Border Patrol] or ICE depending on who picks them up." This indicates unlawful information sharing between Adams County and immigration authorities.

28 On February 8, 2021, Adams County Corrections Officer Aimee Knight emailed two probable cause statements for individuals booked on possible stolen vehicle and assault charges to CBP Agents Jason Petersen and Seth Oppelt, alongside contacts at the Adams County Prosecutor's Office and Adams County Superior Court. On January 12, 2022, Adams County Sheriff Detective Corporal Cale Yount emailed a probable cause statement for an individual booked on a rape charge to CBP Agent Jonathan Hill.

29 On another occasion on January 31, 2022, Adams County Sheriff Detective Corporal Cale Yount emailed a database printout noting the termination of an individual's no-contact order, with non-public information including date of birth, social security number, and home address, to an ICE email address for Agent Michael Steinberg.

30 For example, in his message to ICE, Adams County Detective Yount wrote, "If anything else is needed, let me know." UWCHR also received multiple records of ICE requesting help from Adams County in locating and arresting people; as the responses of Adams County officials were not provided, it cannot be determined whether the county violated the law.

County Sheriff's Office staff appear to have proactively provided this information from your 'new in custody' lists to federal immigration officials, in plain violation of KWW. See RCW 10.93.160(5). Additionally, it appears that Adams County Sheriff's Office has continued to receive civil immigration warrants and serve them on individuals in your custody in violation of KWW." The Assistant Attorney General's letter also notes that the county's Policies 428.4 (Immigration Violations – Enforcement) and 428.6 (Information Sharing) include passages violating KWW.

On December 5, 2022, the Adams County Prosecuting Attorney's Office replied with a letter instructing the Attorney General's Office to direct any further correspondence to its office; the records obtained by UWCHR do not include any additional discussion of the November 2022 letter. However, in September 2023, the Attorney General's Office again contacted Adams County to raise concerns about the county's response to a public records request submitted by the AGO regarding communications between Adams County Sheriff's Office employees and officials with ICE or CBP[31], suggesting that the AGO had continued to research and monitor the county's compliance with KWW. The UWCHR is unaware of the current status of these conversations or the degree to which they have prompted any changes in Adams County's practices.

OTHER JURISDICTIONS

Unfortunately, multiple other law enforcement agencies continued to engage in similar practices long after the law's entry into force. For example:

- Records from Klickitat County show that in January and February 2022, the county's Jail Records Clerk sent out a daily jail housing list, containing inmate booking number, name, and date of birth, alongside a "register" document containing additional information and codes. This information was sent to at least 2 ICE officers, in violation of Keep Washington Working. In February 2022, a Klickitat County Sheriff's Office employee also shared police reports with an ICE Deportation Officer upon request.
- In January 2022, a Quincy Police Department Captain emailed ICE Deportation Officer Jaimie Waite flagging a local resident for ICE by name and date of birth, describing the individual as having been arrested numerous times, but asserting that he "no longer fears the court system...Quincy PD would like [this individual] held responsible for his violent tendencies and if possible removed from our community for public safety reasons".
- On multiple occasions during January 2022, a sergeant from the Kent Police Department shared non-public information with an ICE Deportation Officer, both proactively and in response to requests for information. The materials shared included the names and addresses of subjects as well as jail booking and DOL photos. Notably, the booking and DOL photos were redacted in records released to UWCHR, indicating awareness that these are not public records, despite having already been shared with ICE. In correspondence with NWIRP and the ACLU-WA during 2023 and with UWCHR in 2024 response to a draft of this report, Kent City Attorney Tammy White asserted that these instances of information-sharing do not

31 On September 20, 2023, Assistant Attorney General Emily C. Nelson wrote to Adams County disputing the results of a public records request submitted by the AGO for communication between Adams County employees and ICE or CBP from January 1, 2022, through April 10, 2023. According to the Assistant Attorney General's letter, the county improperly withheld records responsive to the request, noting, "the Sheriff's Office in many cases *proactively shared* the same records [...] in un-redacted form to ICE and CBP, without any concern for the privacy of the individuals whose information was contained in the records produced to those agencies."

constitute violations of KWW because they were "concerning a criminal matter, which is specifically exempted from the KWWA."[32]

PROBLEMATIC POLICY MANUALS

Per Keep Washington Working, local law enforcement agencies are required to adopt written policies conforming to guidelines published by the Attorney General's Office or submit their own alternative policies to the Attorney General's Office to demonstrate compliance. To date, however, relatively few jurisdictions have submitted policies, and UWCHR research has found that practices prohibited by KWW continue to be recommended in policy manuals used by law enforcement agencies to train personnel.

ADAMS COUNTY

For example, the Adams County Sheriff's Deputies' Manual included an "Immigration Violations" chapter suggesting that deputies are permitted to carry out immigration status checks in consultation with ICE or CBP, and to detain people based on "reasonable suspicion that the individual entered into the United States in violation of a federal criminal law"; per guidelines issued by the Washington State Attorney General's Office, local law enforcement agencies "should not engage in law enforcement activities solely for the purpose of enforcing federal immigration laws". The Adams County Sheriff's Office Custody Manual also includes language contradicting KWW, such as instructing bookings officers to collect inmate place of birth, to notify federal agencies when foreign nationals are committed to the jail, and referring to the detention of people solely for civil immigration purposes.

Adams County purchased the manuals from the for-profit company Lexipol, which purportedly provides its clients updated policy guidance in light of the latest laws and court rulings; its chapter on "Temporary Custody of Adults" does cite KWW provisions in Washington State law regarding optional consular notification upon the arrest of foreign nationals, and requiring nondiscrimination on the basis of immigration status, yet if included alongside the suggestion of illegal practices, the guidance is contradictory at best. In its contracts with local jurisdictions, Lexipol claims to be indemnified if their policies expose a jurisdiction to liability – but the local jurisdictions may well face the financial burdens of litigation if its policy violates the law and results in harm.[33]

CITY OF KENT

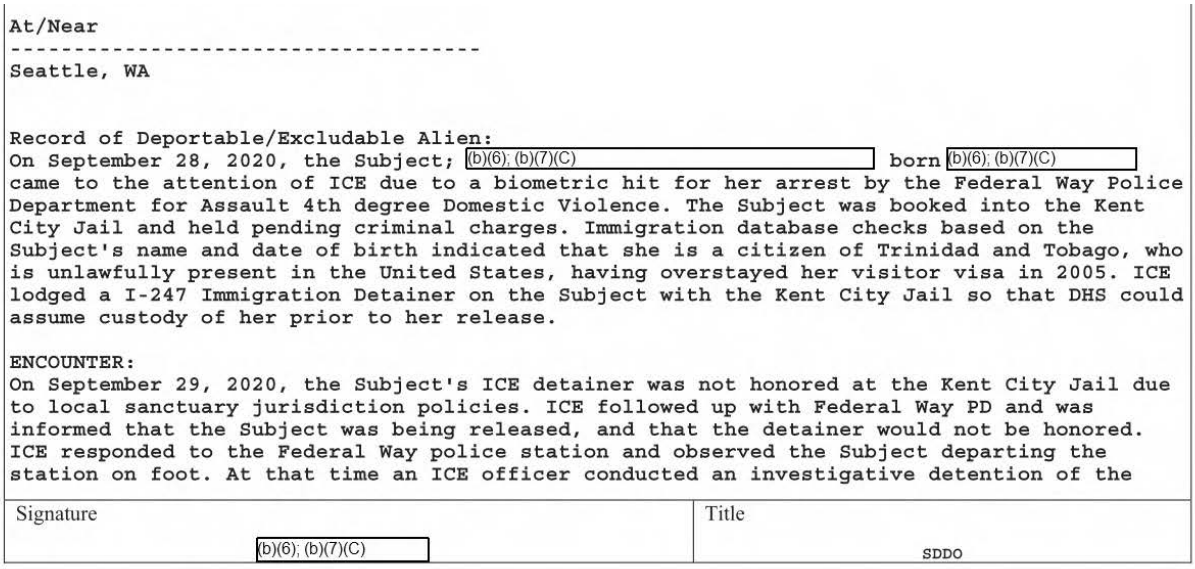
Similarly, the "Foreign National Admissions" and "Immigration Detainers and Warrants" sections of the policy manual for the City of Kent Corrections Facility included instructions to engage in practices that violate KWW, such as notifying federal agents when foreign nationals are committed to the jail, establishing procedures for noting detainer requests in inmate files, and referring to the detention of people solely for civil immigration purposes. While the jail's Corrections Management System included fields for restricted information including place of birth and citizenship, training materials indicated that personnel may be instructed not to collect place of birth information.

32 Email correspondence from Tammy White (City of Kent) to Enoka Herat (ACLU-WA), January 13, 2023. White also asserted that the sharing of jail records with ICE is permitted under state law: "under RCW 70.48.100(2), jail records that would otherwise be confidential may be released to other 'criminal justice agencies', as that term is defined in RCW 43.43.705 (i.e. 'public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication, or rehabilitation of criminal offenders')."

33 See ACLU-WA, "Faulty Lexipol policies expose police departments to costly lawsuits, ACLU-WA and NWIRP warn in letter to law enforcement agencies statewide", January 23, 2018: https://www.aclu.org/press-releases/faulty-lexipol-policies-expose-police-departments-costly-lawsuits-aclu-wa-and-nwirp

In August 2023, the Attorney General's office initiated correspondence with the City of Kent about KWW, issuing several policy recommendations regarding compliance with KWW and the Vienna Convention. The City of Kent later submitted updated, KWW-compliant policies to the Attorney General Office's KWW policies website.

Additionally, in December 2023 the City of Kent Corrections Facility updated its policies to codify provisions of KWW, including explicit prohibitions on involvement in civil immigration enforcement, improved procedures for data entry, and mandated immigration training for corrections officers.



At/Near

Seattle, WA

Record of Deportable/Excludable Alien:
On September 28, 2020, the Subject; (b)(6); (b)(7)(C) born (b)(6); (b)(7)(C) came to the attention of ICE due to a biometric hit for her arrest by the Federal Way Police Department for Assault 4th degree Domestic Violence. The Subject was booked into the Kent City Jail and held pending criminal charges. Immigration database checks based on the Subject's name and date of birth indicated that she is a citizen of Trinidad and Tobago, who is unlawfully present in the United States, having overstayed her visitor visa in 2005. ICE lodged a I-247 Immigration Detainer on the Subject with the Kent City Jail so that DHS could assume custody of her prior to her release.

ENCOUNTER:
On September 29, 2020, the Subject's ICE detainer was not honored at the Kent City Jail due to local sanctuary jurisdiction policies. ICE followed up with Federal Way PD and was informed that the Subject was being released, and that the detainer would not be honored. ICE responded to the Federal Way police station and observed the Subject departing the station on foot. At that time an ICE officer conducted an investigative detention of the

Signature	Title
(b)(6); (b)(7)(C)	SDDO

An excerpt from an ICE I-213 form obtained by UWCHR via FOIA illustrates how an ICE biometric "hit" on a Washington state resident in September 2020 led to her arrest on civil immigration charges upon release from the Kent City Jail.

KWW'S LIMITATIONS

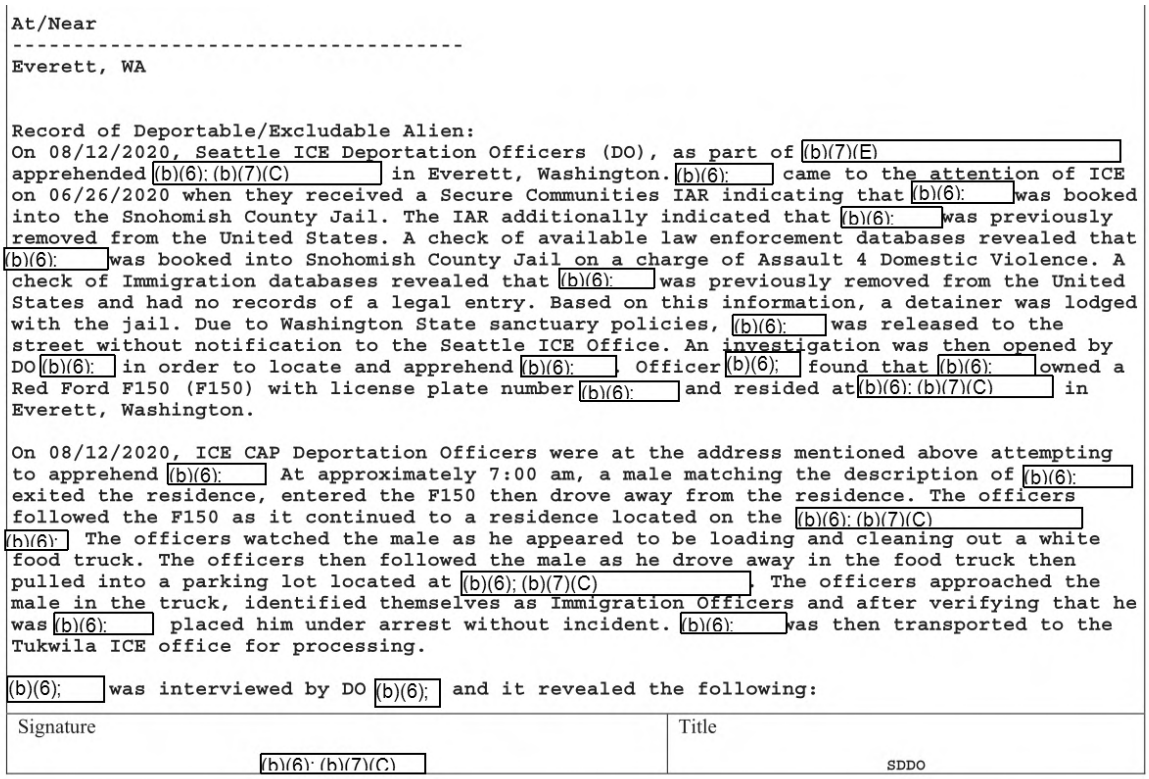
Most of the practices described above constitute clear violations of Keep Washington Working, making it relatively straightforward for advocates to point out failures to comply as violations of Washington state law. Yet as UWCHR researchers examined the details of local/state collaboration with immigration enforcement in our state, we also documented many practices not explicitly forbidden under the law, but which may arguably violate its intention by facilitating collaboration with federal agencies for purposes of civil immigration enforcement in certain circumstances.

DATABASE INTEROPERABILITY

The most salient of these is the fact that local and federal law enforcement databases are interoperable, meaning that every time a person is booked into jail in Washington state, their fingerprints are automatically shared with the FBI and automatically run against federal databases, including databases ICE uses to track individuals.[34] When this process generates a "hit," meaning the individual's fingerprints or other personal data match those of a person DHS has encountered previously, ICE's Law Enforcement Support Center (LESC) is automatically notified; according to federal court testimony, LESC then queries at least ten other databases and may issue a recommendation of action on the case to ICE deportation officers.[35] KWW does nothing to restrict or alter this process, which continues to drive arrests like the one documented above, in which a woman who had overstayed her visa was arrested in Federal Way, thanks to a combination of a biometric "hit" generating ICE interest, and subsequent local police sharing information about her release. She was apprehended immediately after leaving the Federal Way police station on foot.

34 For more on these databases, see the findings of fact in the federal court case, *Gonzalez v. ICE,* Case 2:12-cv-09012-AB-FFM, Document 548, Filed 09/27/19: https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2019-09/gonzalez-v-ice_20190927_decision.pdf. This process is described in more detail in a 2020 audit of ICE's Criminal Alien Program: DHS Office of Inspector General, "U.S. Immigration and Customs Enforcement's Criminal Alien Program Faces Challenges", OIG-20-13, February 18, 2020: https://www.oig.dhs.gov/sites/default/files/assets/2020-02/OIG-20-13-Feb20.pdf

35 *Gonzalez v. ICE,* op. cit.



At/Near

Everett, WA

Record of Deportable/Excludable Alien:
On 08/12/2020, Seattle ICE Deportation Officers (DO), as part of (b)(7)(E) apprehended (b)(6); (b)(7)(C) in Everett, Washington. (b)(6); came to the attention of ICE on 06/26/2020 when they received a Secure Communities IAR indicating that (b)(6); was booked into the Snohomish County Jail. The IAR additionally indicated that (b)(6); was previously removed from the United States. A check of available law enforcement databases revealed that (b)(6); was booked into Snohomish County Jail on a charge of Assault 4 Domestic Violence. A check of Immigration databases revealed that (b)(6); was previously removed from the United States and had no records of a legal entry. Based on this information, a detainer was lodged with the jail. Due to Washington State sanctuary policies, (b)(6); was released to the street without notification to the Seattle ICE Office. An investigation was then opened by DO (b)(6); in order to locate and apprehend (b)(6);. Officer (b)(6); found that (b)(6); owned a Red Ford F150 (F150) with license plate number (b)(6); and resided at (b)(6); (b)(7)(C) in Everett, Washington.

On 08/12/2020, ICE CAP Deportation Officers were at the address mentioned above attempting to apprehend (b)(6); At approximately 7:00 am, a male matching the description of (b)(6); exited the residence, entered the F150 then drove away from the residence. The officers followed the F150 as it continued to a residence located on the (b)(6); (b)(7)(C) (b)(6); The officers watched the male as he appeared to be loading and cleaning out a white food truck. The officers then followed the male as he drove away in the food truck then pulled into a parking lot located at (b)(6); (b)(7)(C) . The officers approached the male in the truck, identified themselves as Immigration Officers and after verifying that he was (b)(6); placed him under arrest without incident. (b)(6); was then transported to the Tukwila ICE office for processing.

(b)(6); was interviewed by DO (b)(6); and it revealed the following:

Signature	Title
(b)(6); (b)(7)(C)	SDDO

Excerpt from an ICE I-213 form obtained by UWCHR via FOIA illustrates how alerts generated under the Secure Communities program and other databases can be used by ICE to encounter and subsequently apprehend Washington state residents following their release from local jails, despite compliance with KWW's prohibition on honoring ICE detainer requests.

Another example is the arrest documented above, which took place in Everett in August 2020. When a man who had been previously deported was booked into Snohomish County Jail, ICE was notified because his arrest generated a Secure Communities "Immigrant Alien Response (IAR)" alert. In compliance with KWW, the jail released him without notifying ICE, but ICE was able to track him down using his license plate and address information, which is also available on other private databases to which it has access:[36]

As these examples illustrate, biometric information collected by local and state law enforcement is now automatically shared with ICE, whether or not local or state law enforcement officers take active steps to facilitate it. KWW does not impede this process.

INTERAGENCY TASK FORCES

Another issue is the ongoing operation of interagency "task forces" convened between local and state law enforcement and federal agencies including ICE and CBP, for the purpose of facilitating communication and collaboration on serious threats to public safety, such as drug and human trafficking. Inasmuch as these include local law enforcement working alongside federal immigration agents, without safeguards in place to ensure that collaboration does not extend to civil immigration enforcement, such task forces may undermine the protective firewalls KWW sought to erect.

In some cases individual task force officers appear, at least digitally, to simultaneously occupy roles within both agencies; UWCHR

36 For more on the dangers of vehicle-related information-sharing via private databases, see UWCHR's report *Who's Watching Washington? Dangers of ALPRs to Immigrant and Reproductive Rights in Washington State*.

research revealed at least three cases of officers who use both local and ICE email addresses, and in some cases email documents back and forth between the two accounts.[37] Such practices raise obvious questions as to how reasonable it is to expect individuals tasked with information-sharing in one facet of their work to lawfully limit it in another.[38]

While not configured as a task force, Whatcom County's What-Comm 911 dispatch service raises related concerns. Operated by the City of Bellingham via an interlocal agreement with Whatcom County, the service provides emergency dispatch for all cities in Whatcom County. Given the county's location on the northern U.S. border, What-Comm dispatch is regularly in contact with CBP dispatchers, raising fears that such contact could result in violations of KWW by sharing non-public information or by involving local law enforcement in civil immigration enforcement activities. Since early 2020, the City of Bellingham has reported such instances of contact with federal agencies by city departments, including What-Comm, to the city's Immigration Advisory Board[39]; these reports do not include information on the outcomes of contacts.

In May 2022, the ACLU-WA, Columbia Legal Services, and NWIRP wrote a joint letter to the City of Bellingham and Whatcom County highlighting several reported contacts in which non-public information may have been shared with CBP by What-Comm dispatch; and at least two cases in which dispatchers apparently facilitated the use of CBP for language interpretation, a practice expressly prohibited by KWW. In July 2022 Bellingham issued updated training materials clarifying What-Comm dispatchers' responsibilities not to share or collect prohibited information per KWW, and prohibiting the use of CBP resources for language interpretation. Additionally, in October 2022 the City of Bellingham modified its interlocal agreement to strike "outdated language" directing What-Comm dispatchers to direct emergency calls for the city of Sumas, WA to Border Patrol.[40] In April 2023, officials from the Attorney General's Office contacted the City of Bellingham to discuss What-Comm's compliance with KWW; in response City officials shared the updated training materials and modified interlocal agreement referenced above.

UWCHR is unaware of other efforts to more clearly delineate responsibilities between local government agencies involved in inter-agency task forces with ICE and CBP.

37 For example, in Grant County, during the month of January 2022, Homeland Security Investigations Special Agent Amy Lambert, a member of the Interagency Narcotics Enforcement Team who maintains both Grant County and ICE email addresses, repeatedly shared documents between these two email accounts; the content of these documents is not known because Grant County did not include email attachments in its response to UWCHR's public records request. U.S. Border Patrol Agent Justin Loudermilk from the Narcotics Task Force has both a CBP and an Okanagan County email address; Benton County Sheriff Deputy Scott Runge from the Southeast Regional ICAC Task Force has both an ICE and a Benton County email address.

38 On this point, model policies created by the Washington Attorney General's office and adopted by agencies such as the Washington State Patrol include the following language: "[Law Enforcement Agency] shall not be a party to any agreement, joint operation, task force, or other multi-jurisdictional activity with any person engaged, or intending to engage, in immigration enforcement, including federal immigration authorities, without legally binding assurances, in writing and pre-approved by [Law Enforcement Agency Sheriff or Chief of Police], that no [Law Enforcement Agency] resources, including any individuals' personal information ascertained by [Law Enforcement Agency] or its personnel, shall be used to support or assist with civil immigration enforcement in any way."

39 In January, 2024, the Bellingham City Council voted to suspend future meetings of the Immigration Advisory Board pending an evaluation process: Johanna Bejarano, "Bellingham's Immigration Advisory Board being evaluated", *Northwest Public Broadcasting*, February 9, 2024: https://www.nwpb.org/2024/02/09/bellinghams-immigration-advisory-board-being-evaluated/

40 Third Modification To What-Comm Communications Center Interlocal Agreement City Contract # 2019- 0510 -- County Contract # 201908010, executed November 17, 2022: https://whatcom.legistar.com/View.ashx?M=F&ID=11530989&GUID=C7C19A7A-B76F-4902-8A7E-B06E225C059F

DEPARTMENT OF CORRECTIONS TRANSFERS

Lastly, in another important limitation, KWW exempted the Washington State Department of Corrections from many of the bill's requirements, including the prohibition on notifying ICE when a person in its custody is ready for release. As a result, many migrants pass directly from DOC to ICE custody, in what advocates have argued amounts to double punishment; under this system, migrants are punished once in the criminal justice system, and then secondarily in civil detention upon completing their sentence – effectively serving two terms for a single crime. In 2023, members of the state legislature introduced HB 5270 to close this gap, but the bill failed to pass out of committee.[41]

An important counter-example here is Oregon's Sanctuary Promise Act, passed in 2021, which includes the state's Department of Corrections in its prohibition on information sharing.[42] Likely as a direct result, UWCHR research found the transfer of individuals from Oregon prisons to ICE custody dropped to zero following the passage of the law.

CONCLUSIONS

Five years after KWW's passage, the ways in which local and state law enforcement interact with federal immigration enforcement agencies across our state are significantly different. This is reflected in ICE's own data about the ways in which individuals are encountered and apprehended in Washington state, as well as in public records documenting the conversations and collaborations between state and local officials and ICE/CBP employees.

The same period has also seen important shifts in federal immigration enforcement policies and practices, so changes in the ways local, state, and federal officials interact around immigrant rights issues cannot be attributed exclusively to the impact of KWW. But UWCHR research tracking both on-the-ground enforcement practices and behind-the-scenes discussions about those actions strongly suggest that the law's requirements have reshaped the terrain on which immigration enforcement takes place in our state. While it is clear that problems continue, including outright defiance of the law in some jurisdictions, it is also apparent that many state and local governments have undertaken important efforts to overhaul their practices and implement protections for immigrants.

While the greatest public fanfare surrounds the passage of new laws, their actual effectiveness always relies on institutions' commitment to implementation and enforcement over time. This is particularly true with laws like KWW that lack built-in tools for monitoring, enforcement or accountability. Yet since 2020, UWCHR has documented a sustained effort, carried forward in large part by public defenders, immigrant rights organizations, and grassroots groups in directly-affected communities, to lend the law "teeth" through advocacy. This has led to some important policy changes particularly in Clark, Spokane, and Whatcom counties. Significantly, the Wing Luke Civil Rights Division of the Washington State Attorney General's Office has also carried out its own investigations to encourage compliance with the law, engaging with Clark, Adams, and Grant counties, and the cities of Bellingham and Kent. These efforts have led to newly revised, KWW-compliant policies in Clark County, Bellingham, and Kent. Per records released to UWCHR, efforts in Adams and Grant counties remain inconclusive. These multifaceted efforts to ensure compliance are certainly laudable, helping make real the protections promoted by Keep Washington

41 See the bill history for SB 5270 – 2023-24: https://app.leg.wa.gov/billsummary?BillNumber=5270&Year=2023&Initiative=false

42 81st Oregon Legislative Assembly, 2021 Regular session, House Bill 3265: https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3265/Enrolled

Working. On the other hand, it is important to remember that the law's limitations continue to allow ICE and CBP to access information compiled by local and state law enforcement and use that information to conduct civil immigration enforcement. Depending on future changes in federal policy and priorities, it is likely we will see continued changes to the ways local governments interact with federal agencies around immigration enforcement. Continued monitoring of on-the-ground practices will remain essential to ensure true compliance with the civil rights protections promised in our federal and state laws.

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Facilitating Successful Community Engagement with City Advisory Groups

Expectations of advisory group members and City of Bellingham officials

An important way we partner with our community to better understand and address its diverse needs is through City advisory boards, commissions, committees and task forces. Volunteer members of these groups bring varied perspectives and lived experiences for City leaders to consider while making decisions.

Serving the public's interest is a top priority for all our advisory groups. Membership is an honor and an important responsibility, requiring commitment of time, energy, expertise, commitment to comply with laws, and interest in promoting public trust and accountability.

These are the City's expectations of advisory group members to facilitate successful community engagement and volunteer experiences:

- Unless otherwise provided in the City Charter or state law, boards and commissions " ... shall be advisory only and shall be for the purpose of assisting the Mayor or City Council in the performance of their duties." (*Section 7.01, Bellingham City Charter*)
- Advisory group work must pertain to City business, addressing matters over which the City has jurisdiction and where its leaders can shape policy to meet City needs.
- Advisory groups must adopt bylaws consistent with City policy and legal requirements to establish rules for conducting their business, as provided for in individual enabling ordinances, and periodically review and update them.
- Advisory groups may issue recommendations and suggestions within the scope of their responsibilities and workplans. They should not direct staff, or create or administer policies, programs or services.
- All advisory group meetings must be conducted in public session and notice of meetings must be given in accordance with state law.
- A quorum of members may not discuss advisory group work and related issues via email, telephone, text, or in unnoticed meetings, as these actions may be in violation of the Open Public Meeting Act.

- Individual advisory group members and the group as a whole should strive to be open-minded, professional and respectful when working alongside the public, staff and each other.
- Members should be respectful of differing opinions, committed to working effectively in the group setting, contribute to healthy discourse and resolve conflict constructively.
- Members may not use their positions to secure special privileges or exemptions for themselves or others.
- Members may not give or receive any compensation or gifts from entities or individuals engaged in items of business under consideration before the group and must avoid conflicts of interest.
- Members may not represent or speak on behalf of an advisory group unless given express direction to do so by a majority vote of the group.
- Members may not act as representatives of the City unless expressly commissioned to do so by the Mayor or by formal action of the City Council.
- Members must attend meetings regularly and may not designate proxies to serve in their place unless allowed by the establishing ordinance.
- Members should remain up to date on processes and issues affecting their groups, be well prepared for meetings, and participate in orientations and trainings.
- Appointment decisions are made by the identified appointing authority according to the establishing ordinance. Members do not have a vested right to appointment or reappointment to a position.

Advisory group members can have these expectations of the City to facilitate successful community engagement and volunteer experiences:

- Provide and broadly promote opportunities for people to apply for positions on advisory groups, specifically encouraging interest from traditionally under-represented communities. Use consistent, fair and transparent processes for considering applicants, and make timely appointments.

- Provide leadership, guidance and administrative support to help each advisory group achieve its established purpose, contribute successfully and meaningfully to the City, and meet legal and policy requirements.
- Provide designated City staff, including points of City contact for questions or concerns. Designate a City staff person to attend each meeting.
- Set and publish timely agendas, work plans and meeting minutes, using established City systems. Group members may make recommendations or suggestions for meeting agendas and work plans.
- Provide meeting space, technical and logistics support. Address needs for ADA accommodations and language access, and consider other requests to support successful member participation.
- Organize orientation and training sessions for members, including training on the state Open Public Meetings and Public Records acts.
- Be open-minded, professional and respectful, demonstrating the City's established public services expectations, including maintaining a service and results orientation and demonstrating teamwork and cooperation.
- Facilitate adoption of bylaws and other group agreements to enable healthy discourse and move through conflict constructively. Provide facilitation, mediation or other services in support of this work or when a group is unable to resolve conflicts.

Additional expectations may be described in establishing ordinances approved by City Council when each group was formed and in bylaws or other agreements approved by individual groups.

We value the perspectives and services provided by advisory group members who contribute significantly to the leadership of our City. Thank you to everyone serving these important roles in our community!

Mayor Kim Lund
August 12, 2024

Dan Hammill, City Council President
August 12, 2024

City Council Agenda Bill

24257

Bill Number

Subject: **An Ordinance of the City of Bellingham, Washington, Dissolving the Immigration Advisory Board and Repealing Bellingham Municipal Code Chapter 2.26**

Summary Statement: The Bellingham City Council is considering a proposal to form a Keep Washington Working Act (KWW) work group. The proposed purpose of the group is to research, discuss and arrive at a shared understanding of the City's actions to achieve and maintain compliance with KWW, which was an area of interest and an original intention for examination when the Immigration Advisory Board (IAB) was formed. This related proposal recommends dissolving the IAB and repealing its enabling ordinance (BMC 2.26). This action would provide definitive clarity about the status of the IAB, especially for current members, rather than leaving the IAB on pause until 2026. This allows members to apply to participate on the KWW working group, another City advisory group, or lend their support to the community in other ways.

Previous Council Action: **Established Immigration Advisory Board by Ordinance 2019-11-033, modified composition of the board by Ordinance 2021-03-009, and suspended meetings of the board by Ordinance 2024-02-006**

Fiscal Impact: **None**

Funding Source: **None**

Attachments: 1. ORDINANCE

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	09/30/2024	Vote to Approve	Council Member Hannah Stone	20 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Janice Keller, Deputy Administrator

Council Action:

Reviewed By	Department	Date
Janice L. Keller	Executive	09/25/2024
Alan A. Marriner	Legal	09/25/2024
Kimberley J. Lund	Executive	09/25/2024

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, DISSOLVING THE IMMIGRATION ADVISORY BOARD AND REPEALING BELLINGHAM MUNICIPAL CODE CHAPTER 2.26 AND

WHEREAS, the Keep Washington Working Act (KWW) enacted by the State of Washington in 2019 made numerous changes to state law for the stated purpose of "ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working"; and

WHEREAS, in passing KWW, the Legislature determined that a person's immigration status, presence in the country, or employment alone is not a matter for police action—reinforcing that the federal government bears the primary jurisdiction to enforce federal immigration law; and

WHEREAS, KWW restricts the extent to which local law enforcement agencies (LEAs) may participate in the enforcement of federal immigration laws; and

WHEREAS, KWW prohibits local LEAs from asking for or collecting information about a person's immigration or citizenship status, or place of birth—unless there is a connection between that information and an investigation into a violation of state or local criminal law; and

WHEREAS, unauthorized presence in the United States is governed by federal law and is not, by itself, a crime; and

WHEREAS, KWW prohibits local law enforcement from detaining someone solely for the purpose of determining immigration status or based solely on a civil immigration warrant, or an immigration hold request; and

WHEREAS, on November 4, 2019, the City adopted Ordinance No. 2019-11-033, which created Chapter 2.26 of the Bellingham Municipal Code and established the Immigration Advisory Board (IAB) to review and evaluate existing City policies and analyze City data to determine compliance with KWW; and

WHEREAS, on February 12, 2024, the City adopted Ordinance No. 2024-02-006, which suspended all future meetings of the IAB until the City adopted an ordinance rescinding the suspension. The purpose of the suspension was to allow City Council and the City administration adequate time to evaluate the City's purpose, goals, and objectives for maintaining the IAB and the level of City resources needed to achieve them and to make any necessary changes to Bellingham Municipal Code (BMC) Chapter 2.26: and

WHEREAS, on September 30, 2024, the City adopted Resolution No. _____ directing the City administration to create a limited-term Keep Washington Working Act Advisory Work group to study the Act, advise the City on compliance, and recommend related policy considerations; and

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

WHEREAS, with the formation of the limited-term Keep Washington Working Act Advisory Work group to examine the City's compliance with the KWW, the City desires to dissolve the IAB and repeal BMC Chapter 2.26, the IAB's implementing ordinance.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The above "WHEREAS" recitals are adopted as findings of fact in support of this ordinance.

Section 2. **T**he Immigration Advisory Board is dissolved.

Section 3. BMC Chapter 2.26 is repealed in its entirety.

Section 4. If the provisions of this ordinance are found to be inconsistent with other provisions of the Bellingham Municipal Code, this ordinance shall control.

Section 5. If any section, sentence, clause, or phrase of this ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

PASSED by the Council this _____ day of _____, 2024.

_____
Council President

APPROVED by me this _____ day of _____, 2024.

_____
Mayor

ATTEST:_____
Finance Director

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

APPROVED AS TO FORM:

_____
Office of the City Attorney

Published:

_____

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

City Council Agenda Bill

24258

Bill Number

Subject: **All-City Climate Workplan 2025**

Summary Statement: In 2007, the City adopted the City of Bellingham Climate Protection Action Plan as official policy in response to the growing awareness of the global climate crisis. In May 2018, City Council adopted the updated 2018 Climate Action Plan (CAP) as policy with new emissions reductions targets. The Mayor's Climate Office will be updating Council on the All-City Climate Work Plan for 2025, specifically the portion of the Plan dealing with carbon emissions reductions.

Previous Council Action: **Adoption of Resolution 2020-45 amending the 2018 Climate Action Plan**

Fiscal Impact: **The proposed 2025 Climate Office Budget is $1.3 million. Other City staff and resources will also support this work**

Funding Source: **Citywide Funds**

Attachments:
1. STAFF MEMO
2. PRESENTATION

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Information Only	09/30/2024	Information/Discussion	Seth Vidaña, Climate and Energy Manager, Mayor's Office	10 minutes

Recommended Motion:

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Seth Vidaña, Climate and Energy Manager, Mayor's Office

Council Action:

Reviewed By	Department	Date
Janice L. Keller	Executive	09/24/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/25/2024

City of Bellingham
210 Lottie Street
Bellingham, WA 98225

STAFF MEMO

TO:	**BELLINGHAM CITY COUNCIL**
FROM:	SETH VIDAÑA, CLIMATE AND ENERGY MANAGER
CC:	MAYOR KIM LUND; FORREST LONGMAN, DEPUTY ADMINISTRATOR; CLARE FOGELSONG, CLIMATE POLICY MANAGER
SUBJECT:	ALL-CITY CLIMATE WORKPLAN 2025
DATE:	SEPTEMBER 30, 2024

BACKGROUND
In 2007, the City adopted the City of Bellingham Climate Protection Action Plan as official policy in response to the growing awareness of the global climate crisis. In May, 2018, City Council adopted the updated 2018 Climate Action Plan (CAP) as policy with new emissions reductions targets.

The Mayor's Climate Office will be updating Council on the All-City Climate Work Plan for 2025, specifically the portion of the Plan dealing with carbon emissions reductions. This aspect of the Plan is derived from actions recommended as part of the City's Climate Action Research Project, a joint effort between the City of Bellingham and Sustainability Solutions Group. This project produced recommendations for the City's efforts in building electrification, vehicle electrification, and renewable energy to be taken in pursuit of the City's carbon emissions reduction targets. The All-City Climate Work Plan is a plan for the entirety of City government, including the Mayor's Climate Office, Planning and Community Development, Public Works, and other departments.

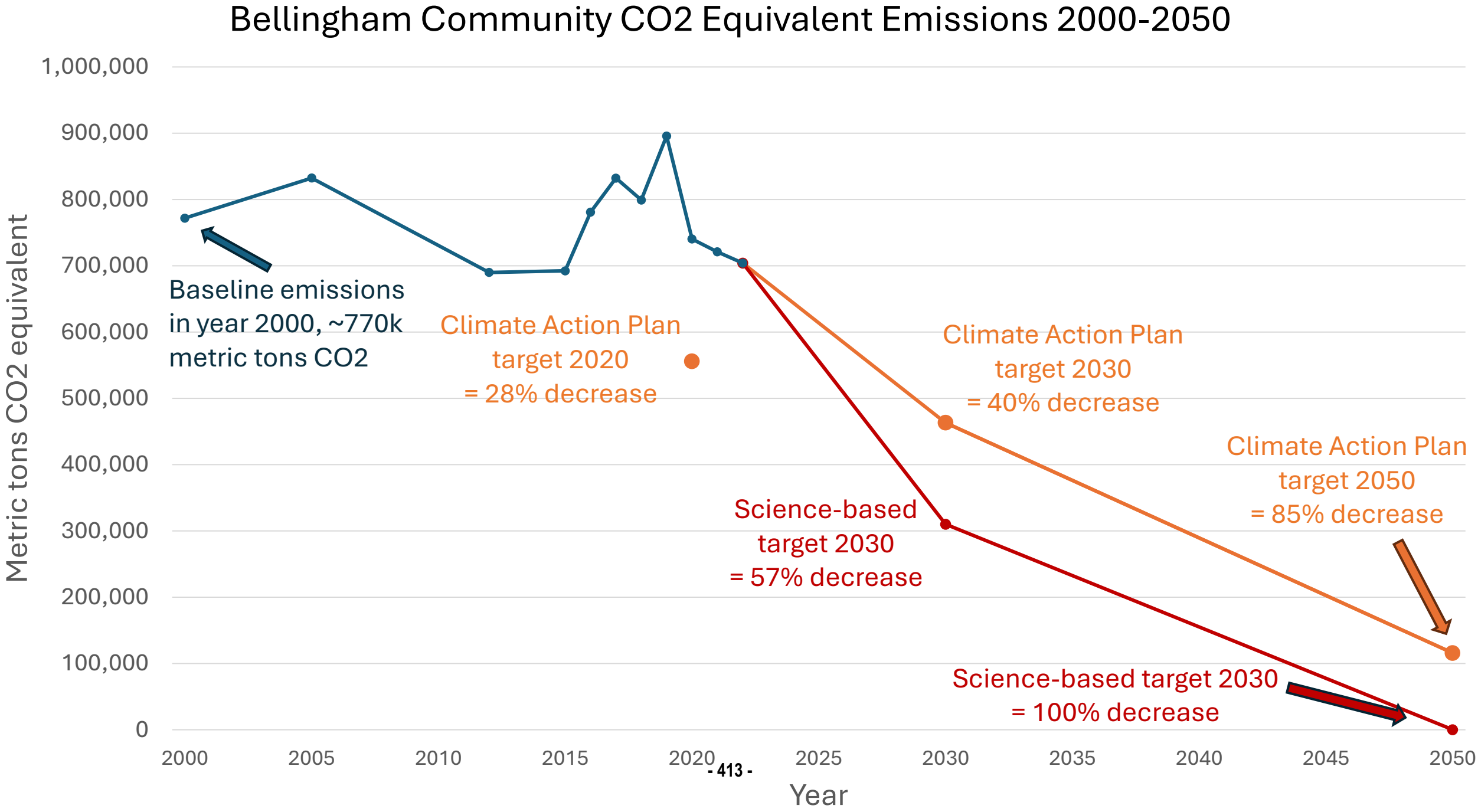
NEXT STEPS:
Update to Council on the remaining element of the Climate Action Work Plan for 2025: Climate adaptation/resiliency and City operations.

RECOMMENDATION COUNCIL ACTION:
Information item only. No recommendation.

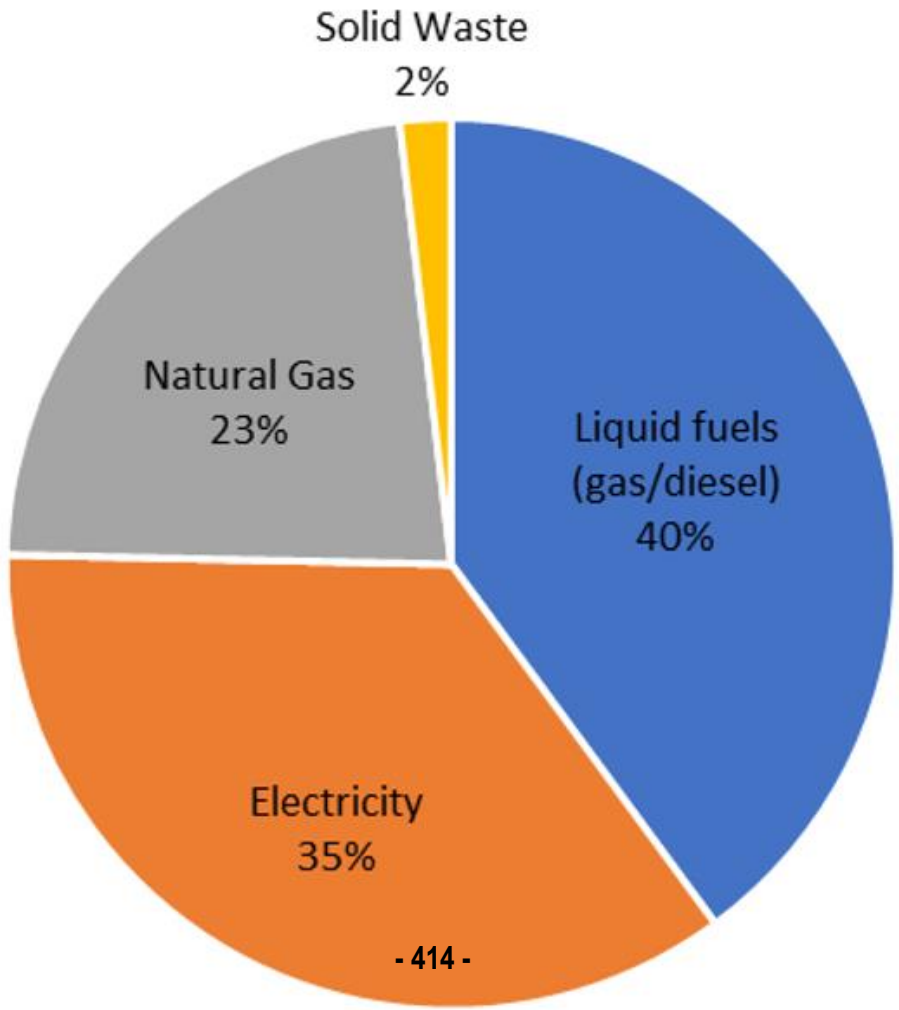
All-City Climate Workplan

Emissions Reduction Actions

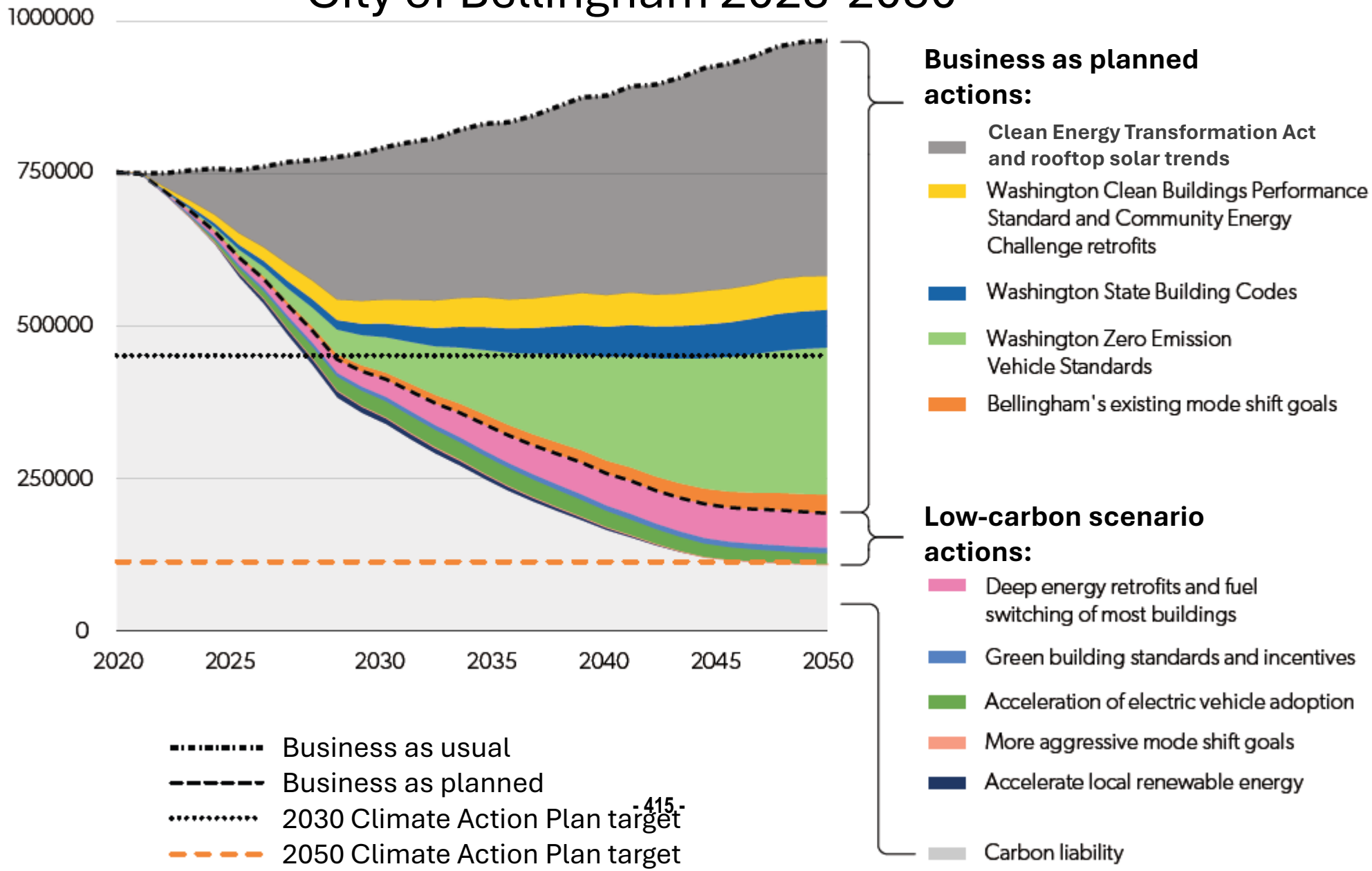
Presented by:
Seth Vidaña, Climate Manager
Mayor's Climate Office


Bellingham Community CO2 Equivalent Emissions 2000-2050
Metric tons CO2 equivalent
1,000,000
900,000
800,000
700,000
600,000
500,000
400,000
300,000
200,000
100,000
0
2000
2005
2010
2015
2020
2025
2030
2035
2040
2045
2050
Year
Baseline emissions in year 2000, ~770k metric tons CO2
Climate Action Plan target 2020 = 28% decrease
Climate Action Plan target 2030 = 40% decrease
Climate Action Plan target 2050 = 85% decrease
Science-based target 2030 = 57% decrease
Science-based target 2030 = 100% decrease

Bellingham Community CO2 Equivalent Emissions by Source (2022)



Business as planned and low-carbon scenarios
City of Bellingham 2023-2050



Cross Sector Actions

Provide ongoing outreach and education to residents about climate action

- Provide information to the public on achieving City climate goals into existing public communications efforts on a regular basis.
- Work to connect residents to existing external resources, such as state and federal tax credits and rebates. (Energy Efficiency & Conservation Block Grant, $148k)
- Provide local financial resources for building electrification. (Home Electrification Pilot Program, $130k; Home Electrification Appliance Rebate, ~$1M;)
- Explore establishing the City as a resource for building and operating low-carbon buildings and provide education and training to contractors and property owners.

Support the development of cooperatives for climate action

- Investigate the development of the electric and plug-in hybrid car-sharing cooperatives by providing designated spaces and chargers in City-owned/managed parking lots/garages and planning assistance.

Cross Sector Actions

Accelerate sustainable development practices

- Explore streamlining City's permitting process and reduce wait times for building retrofits, electrification, and sustainable construction projects aligned with the City Permit Center.
- Support housing policies that place a majority of all new housing growth in urban villages and along transit corridors, an increase from the current percentage of 40%.

Low-Carbon Transportation Actions

Power 30% of vehicles with electricity by 2030, and all vehicles by 2050

- Investigate adoption of a Green Development Policy that supports EV adoption. Remove code barriers to EVs and EV infrastructure. Aim for requiring 20% parking spaces to be “EV-Ready” and up to 100% of spaces to be “EV Capable.”

Switch 1 in 4 trips to walking, biking, or transit by 2030, and 1 in 3 by 2050

- Continue to fast-track the bike and walk networks to ensure at least 25% of trips under 5 miles are taken by foot or (e-)bike by 2050.
- Investigate modernizing parking requirements to reduce the average number of vehicles per household to 1.5 by 2030, and to 1 by 2050.
- Partner with WTA to support increasing transit ridership by providing seamless biking and walking connections to transit and working with WTA to improve the frequency, reliability, and efficiency of transit service.

Building Electrification and Energy Efficiency Actions

Implement deep-energy retrofits in at least 75% of buildings by 2045

- Examine how to best provide grants for retrofitting multifamily residential properties, such that 50% are retrofitted by 2030, and 95% by 2050. (pending funding)
- Examine how to best provide grants for retrofitting commercial properties, particularly those smaller than 50k ft^2. (pending funding)
- Research the creation of a publicly accessible reporting process for residential and commercial building energy use, utility costs, and carbon emissions production.

Renewable Energy Actions

Develop 10 MW of City- or community-owned renewable energy by 2030

- Convene interested parties and support development of suitable sites for community solar and renewable energy cooperatives. (Clean Energy Grant, $165k)

Support innovation in renewable energy technologies

- Research and evaluate local geothermal and district energy potential.

City of Bellingham Climate Action

Seth Vidaña: savidana@cob.org

City Council Agenda Bill

24259

Bill Number

Subject: **Authorization of Payroll Labor Cost Payments Dated August 16, 2024 to August 31, 2024**

Summary Statement: For payroll payments related to the period of August 16, 2024 to August 31, 2024

Totals: $5,112,104.76

Previous Council Action: **2023-2024 Adopted Budget**

Fiscal Impact: **Payroll labor costs payments issued for amounts shown above are within legally appropriated budget**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Authorize Payroll	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Kathleen Barefoot-Soles, HR Payroll

Council Action:

Reviewed By	Department	Date
Andrew D. Asbjornsen	Finance Department	09/10/2024
Matthew T. Stamps	Legal	09/10/2024
Kimberley J. Lund	Executive	09/24/2024

City Council Agenda Bill

24260

Bill Number

Subject: **Authorization of A/P Transactions Issued September 06, 2024 through September 12, 2024**

Summary Statement: In accordance with state law, approval is requested for the payments issued for City goods and services received.

A/P EFT and EDI transactions, and check(s) #572614 through #572733, were issued during the pay period of September 06, 2024 through September 12, 2024, in the amount of $3,005,838.55.

Previous Council Action: **2023-2024 Adopted Budget**

Fiscal Impact: **Payments issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Dan Dodson, Finance Department

Reviewed By	Department	Date
Andrew D. Asbjornsen	Finance Department	09/24/2024
Matthew T. Stamps	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

Council Action:

City Council Agenda Bill

24261

Bill Number

Subject: **Authorization of A/P Transactions Issued September 13, 2024 through September 19, 2024**

Summary Statement: In accordance with state law, approval is requested for the payments issued for City goods and services received.

A/P EFT and EDI transactions, and check(s) #572734 through #572816, were issued during the pay period of September 13, 2024 through September 19, 2024, in the amount of $2,824,253.54.

Previous Council Action: **2023-2024 Adopted Budget**

Fiscal Impact: **Payments issued for amounts shown above are within legally appropriated budget.**

Funding Source: **Citywide Funds**

Attachments:

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Authorize Accounts Payable	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Dan Dodson, Finance Department

Reviewed By	Department	Date
Andrew D. Asbjornsen	Finance Department	09/24/2024
Matthew T. Stamps	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

Council Action:

City Council Agenda Bill

24262

Bill Number

Subject: **Contract Award for 2024 Crack Seal Program, Bid No. 36B-2024**

Summary Statement: The 2024 Crack Seal Program, Bid No. 36B-2024, provides for crack sealing asphalt streets throughout Bellingham as a part of the City's pavement preservation program. The City publicly opened five bids on September 4, 2024. Huizenga Enterprises was the responsible bidder who submitted the lowest responsive bid of $127,800.00, including any applicable Sales or Use Tax. The engineers estimate for this project was $270,000.00. The contract is less than $1 million and is, therefore, not subject to the apprenticeship program requirements of BMC 4.94.

Previous Council Action: **Approval of the 2023-2024 Budget**

Fiscal Impact: **$127,800.00**

Funding Source: **Street Fund (111)**

Attachments:
1. VICINITY MAPS
2. BID OPENING REPORT
3. BID PROPOSAL
4. BID TABULATION (CORRECTIONS)
5. MANDATORY BIDDER RESPONSIBILITY CHECKLIST

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Vote to Approve	Mike Olinger, Interim Public Works Director	0 minutes

Recommended Motion: Award contract for Bid No. 36B-2024 to Huizenga Enterprises.

Council Committee:

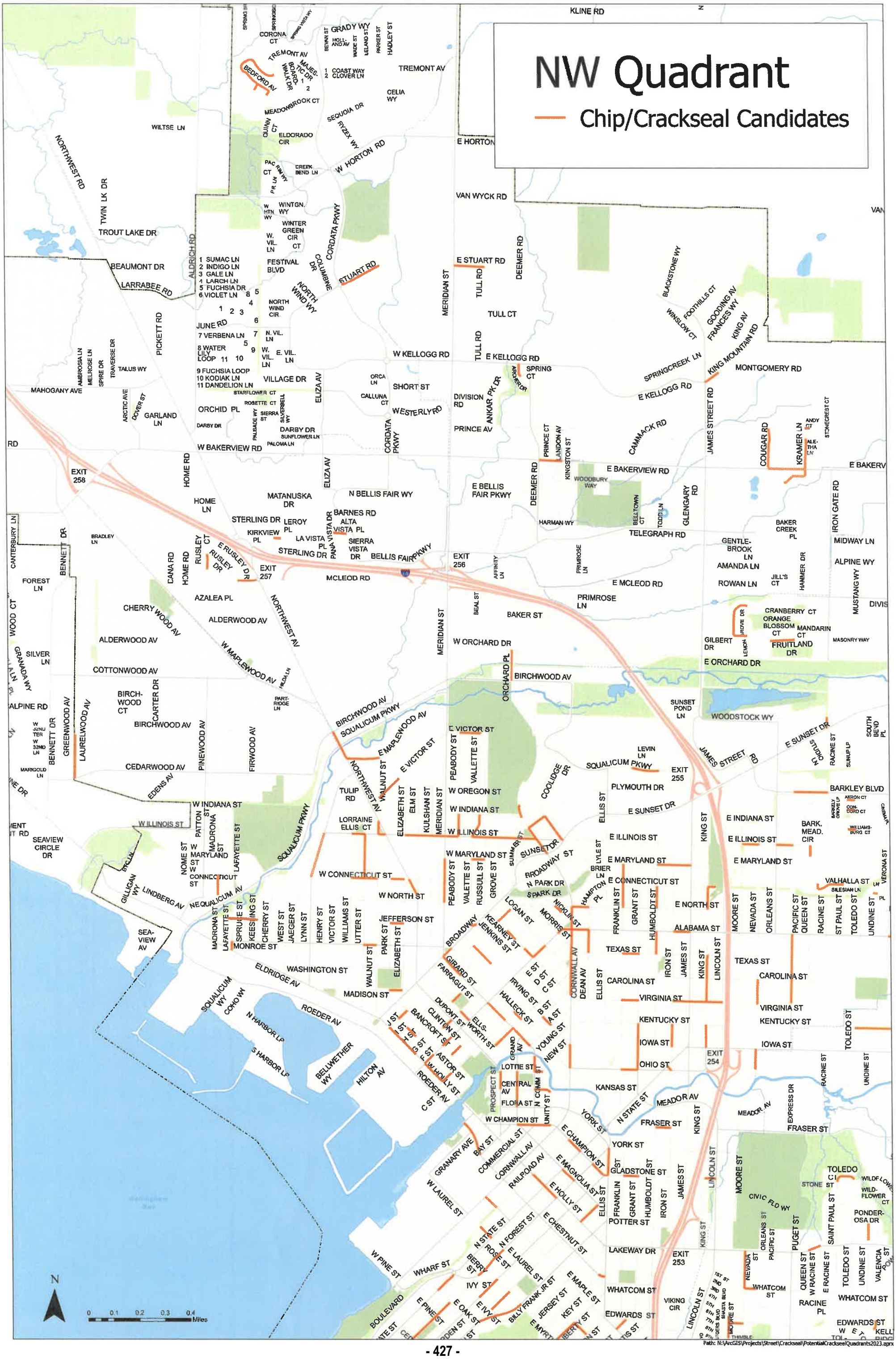
Agenda Bill Contact:
Todd Baker, Streets Supervisor, 360-778-7726

Council Action:

Reviewed By	Department	Date
Joel F. Pfundt	Public Works	09/23/2024
Matt L. Serier	Purchasing	09/24/2024
Andrew D. Asbjornsen	Finance	09/24/2024
Matthew T. Stamps	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

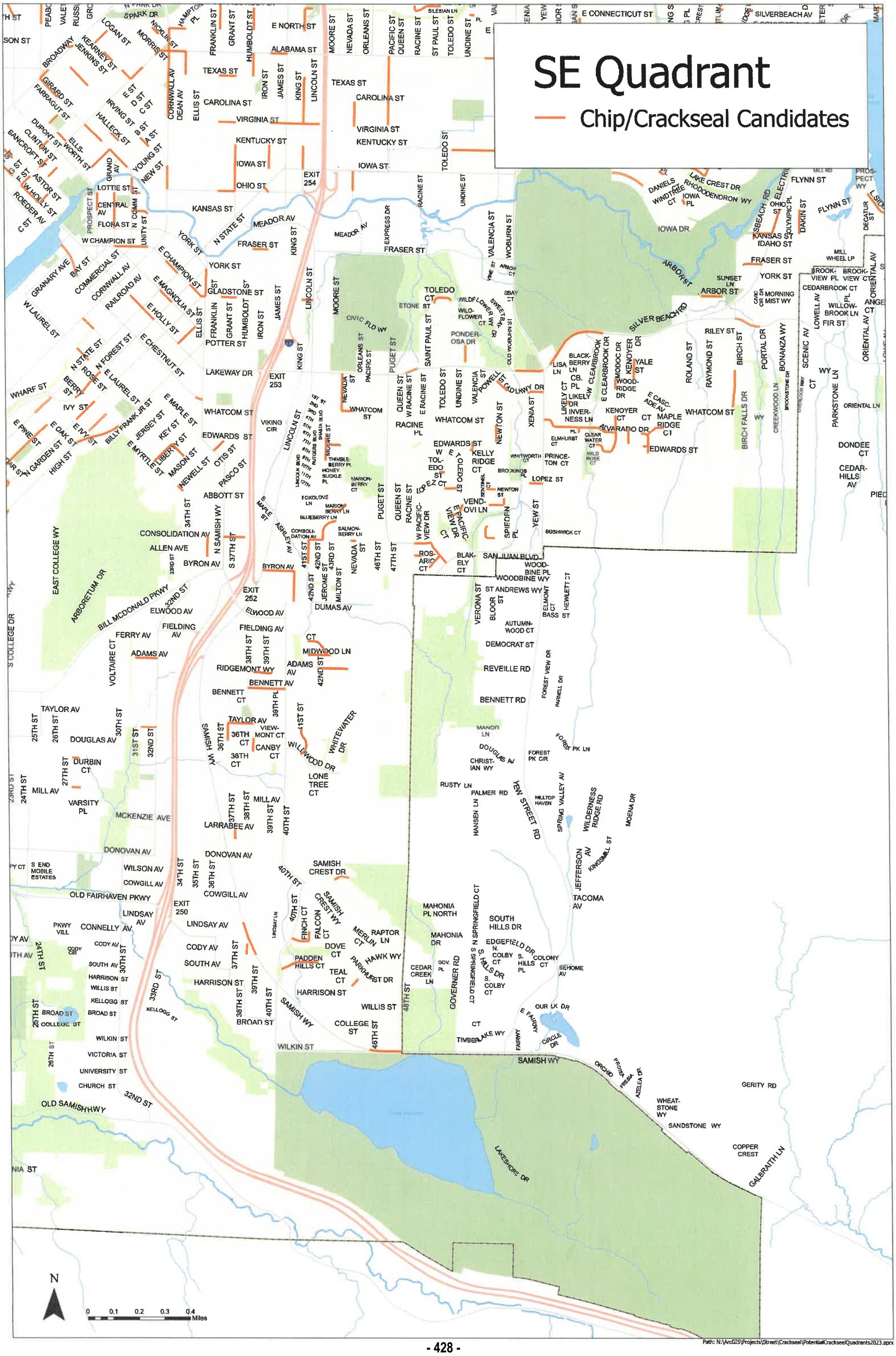
NE Quadrant

— Chip/Crackseal Candidates


NW Quadrant
Chip/Crackseal Candidates
KLINE RD
GRADY WY
CORONA CT
TREMONT AV
BEDFORD AV
BOARDWALK DR
MAJESTIC DR
1 COAST WAY
2 CLOVER LN
CELIA WY
MEADOWBROOK CT
SEQUOIA DR
QUINN CT
ELDORADO CIR
RYZEX WY
E HORTON
W HORTON RD
CREEK BEND LN
WILTSE LN
NORTHWEST RD
TWIN LK DR
TROUT LAKE DR
VAN WYCK RD
W WINTGN. WY
WINTER GREEN CIR CT
W. VIL. LN
CORDATA PKWY
COLUMBINE DR
FESTIVAL BLVD
1 SUMAC LN
2 INDIGO LN
3 GALE LN
4 LARCH LN
5 FUCHSIA DR
6 VIOLET LN
ALDRICH RD
BEAUMONT DR
LARRABEE RD
STUART RD
E STUART RD
DEEMER RD
TULL RD
MERIDIAN ST
NORTH WIND WY
NORTH WIND CIR
JUNE RD
7 VERBENA LN
8 WATER LILY LOOP
9 FUCHSIA LOOP
10 KODIAK LN
11 DANDELION LN
N. VIL. LN
W. VIL. LN
E. VIL. LN
VILLAGE DR
TULL CT
W KELLOGG RD
E KELLOGG RD
SPRING CT
PICKETT RD
AMBROSIA LN
MELROSE LN
SPIRE DR
TRAVERSE DR
TALUS WY
MAHOGANY AVE
ELIZA AV
ORCA LN
SHORT ST
CALLUNA CT
DIVISION RD
ANKAR PK DR
ANDOVER
SPRINGCREEK LN
KING MOUNTAIN RD
MONTGOMERY RD
BLACKSTONE WY
FOOTHILLS CT
WINSLOW CT
GOODING AV
FRANCES WY
KING AV
ARCTIC AVE
DOVER ST
GARLAND LN
ORCHID PL
STARFLOWER CT
ROSETTE CT
SIERRA ST
SILVERBELL WY
PALISADE WY
DARBY DR
SUNFLOWER LN
PALOMA LN
W BAKERVIEW RD
CORDATA PKWY
WESTERLY RD
PRINCE AV
PRINCE CT
LANDON AV
KINGSTON ST
CAMMACK RD
JAMES STREET RD
E BAKERVIEW RD
WOODBURY WAY
E BELLIS FAIR PKWY
DEEMER RD
GLENGARY RD
COUGAR RD
KRAMER LN
ANDY CT
ALE-THA LN
STONECREST CT
E BAKERV
HOME RD
HOME LN
EXIT 258
MATANUSKA DR
N BELLIS FAIR WY
ELIZA AV
STERLING DR
LEROY PL
KIRKVIEW PL
BARNES RD
ALTA VISTA PL
LA VISTA PL
PANA VISTA DR
SIERRA VISTA DR
HARMAN WY
BELLTOWN CT
TODD LN
TELEGRAPH RD
IRON GATE RD
BAKER CREEK PL
MIDWAY LN
ALPINE WY
MUSTANG WY
DIVIS
CANTERBURY LN
BENNETT DR
BRADLEY LN
FOREST LN
RUSLEY CT
RUSLEY DR
E RUSLEY DR
DANA RD
HOME RD
STERLING DR
KIRKVIEW PL
LA VISTA PL
PANA VISTA DR
SIERRA VISTA DR
BELLIS FAIR PKWY
EXIT 257
EXIT 256
MCLEOD RD
E MCLEOD RD
AFFINITY LN
PRIMROSE LN
GENTLE-BROOK LN
AMANDA LN
ROWAN LN
JILL'S CT
HAMMER DR
AZALEA PL
CHERRY WOOD AV
ALDERWOOD AV
NORTHWEST AV
W MAPLEWOOD AV
BEAL ST
BAKER ST
PRIMROSE LN
MERIDIAN ST
W ORCHARD DR
CRANBERRY CT
ORANGE BLOSSOM CT
MANDARIN CT
FRUITLAND DR
GILBERT DR
LEMON GROVE DR
MASONRY WAY
E ORCHARD DR
SILVER LN
GRANADA WY
COTTONWOOD AV
BIRCHWOOD AV
ORCHARD PL
SUNSET POND LN
WOODSTOCK WY
BIRCH-WOOD CT
CARTER DR
PART-RIDGE LN
ALPINE RD
BENNETT DR
GREENWOOD AV
LAURELWOOD AV
PINEWOOD AV
FIRWOOD AV
CEDARWOOD AV
MARIGOLD LN
EDENS AV
SQUALICUM PKWY
E MAPLEWOOD AV
E VICTOR ST
PEABODY ST
VALLETTE ST
NORTHWEST AV
WALNUT ST
TULIP RD
W OREGON ST
W INDIANA ST
W ILLINOIS ST
LORRAINE ELLIS CT
ELIZABETH ST
ELM ST
KULSHAN ST
MERIDIAN ST
COOLIDGE DR
LEVIN LN
SQUALICUM PKWY
EXIT 255
PLYMOUTH DR
E SUNSET DR
JAMES STREET RD
E SUNSET DR
STUDIO LN
RACINE ST
SUNUP LP
SOUTH BEND PL
BARKLEY BLVD
AKRON CT
CONCORD CT
WILLIAMSBURG CT
BARKLEY GROVE LP
ELLIS ST
KING ST
E INDIANA ST
E ILLINOIS ST
E MARYLAND ST
BARK. MEAD. CIR
SEAVIEW CIRCLE DR
PATTON ST
W MADRONA ST
W MARYLAND ST
W CONNECTICUT ST
LAFAYETTE ST
NOME ST
SUMMER ST
SUNSET DR
BROADWAY ST
BRIER LN
E CONNECTICUT ST
W NORTH ST
JEFFERSON ST
MONROE ST
SEA-VIEW AV
GILLIGAN WY
LINDBERG AV
NEQUALICUM AV
MADRONA ST
SPRUCE ST
KEESLING ST
CHERRY ST
WEST ST
JAEGER ST
LYNN ST
HENRY ST
VICTOR ST
WILLIAMS ST
UTTER ST
WALNUT ST
PARK ST
ELIZABETH ST
PEABODY ST
VALLETTE ST
RUSSELL ST
GROVE ST
BROADWAY
KEARNEY ST
JENKINS ST
LOGAN ST
MORRIS ST
NICKLIN ST
HAMPTON PL
N PARK DR
S PARK DR
FRANKLIN ST
GRANT ST
HUMBOLDT ST
E NORTH ST
ALABAMA ST
MOORE ST
NEVADA ST
ORLEANS ST
PACIFIC ST
QUEEN ST
RACINE ST
ST PAUL ST
TOLEDO ST
UNDINE ST
TEXAS ST
IRON ST
JAMES ST
KING ST
LINCOLN ST
CAROLINA ST
VIRGINIA ST
KENTUCKY ST
IOWA ST
OHIO ST
EXIT 254
KANSAS ST
MEADOR AV
EXPRESS DR
FRASER ST
YORK ST
E CHAMPION ST
W CHAMPION ST
UNITY ST
N COMMERCIAL ST
CENTRAL AV
FLORA ST
LOTTIE ST
PROSPECT ST
GRAND AV
NEW ST
YOUNG ST
ASTOR ST
W HOLLY ST
ROEDER AV
C ST
D ST
E ST
IRVING ST
HALLECK ST
DUPONT ST
CLINTON ST
BANCROFT ST
ELLSWORTH ST
FARRAGUT ST
GIRARD ST
CORNWALL AV
DEAN AV
RAILROAD AV
COMMERCIAL ST
BAY ST
GRANARY AVE
W LAUREL ST
E MAGNOLIA ST
E HOLLY ST
E CHESTNUT ST
N STATE ST
N FOREST ST
N ROSE ST
BERRY ST
IVY ST
E LAUREL ST
E MAPLE ST
E IVY ST
E OAK ST
BILLY FRANK JR ST
JERSEY ST
KEY ST
W PINE ST
WHARF ST
BOULEVARD
LAKEWAY DR
EXIT 253
WHATCOM ST
EDWARDS ST
VIKING CIR
RACINE PL
W RACINE ST
E RACINE ST
QUEEN ST
SAINT PAUL ST
PUGET ST
PONDEROSA DR
WILDFLOWER CT
WILDFLOWER LN
STONE ST
TOLEDO CT
CIVIC FLD WY
VALHALLA ST
SILESIAN LN
VERONA ST
SQUALICUM WY
COHO WY
N HARBOR LP
S HARBOR LP
ROEDER AV
BELLWETHER WY
HILTON AV
ELDRIDGE AV
WASHINGTON ST
MADISON ST
SQUALICUM PKWY
N
0 0.1 0.2 0.3 0.4 Miles
Path: N:\ArcGIS\Projects\Street\Crackseal\PotentialCrackseelQuadrants2023.aprx

SE Quadrant

— Chip/Crackseal Candidates



SW Quadrant

— Chip/Crackseal Candidates

CITY OF BELLINGHAM

FINAL BID OPENING REPORT

Eng Est.

Tod Baker-PROJECT MANAGER

Matt Serier/Mukaila Lawal/Aaron McElroy- Purchasing

BID NAME	BID NUMBER	DATE OPENED	
2024 Crack Seal Program	**36B-2024**	**9/4/2024**	

Company Name	CITY/STATE		TOTAL BID AMOUNT INCLUDING TAX
CENTRAL PAVING	**ELLENSBURG, WA**	**Total With Tax =**	**$223,200.00**
CONSTRUCTION AHEAD INC.	**KENNEWICK, WA**	**Total With Tax =**	**$402,900.00**
C.R CONTRACTING, LLC	**BEND, OR**	**Total With Tax =**	**$251,700.00**
DOOLITTLE CONSTRUCTION	**SNOQUALMIE, WA**	**Total With Tax =**	**$282,900.00**
HUIZENGA ENTERPRISES	**BELLINGHAM, WA**	**Total With Tax =**	**$127,800.00**

EXHIBIT A
TO PUBLIC WORKS AGREEMENT

BID PROPOSAL

To the City of Bellingham:

The undersigned bidder declares that he/she has carefully examined the Bid Documents, including the Contract Plans, Provisions, and Specifications for the construction of the 36B-2024 CRACK SEAL PROGRAM, has made an examination of the site of the proposed work, has made such investigations as are necessary to determine the conditions to be encountered, and that if this Bid Proposal is accepted, he/she will contract with the City of Bellingham, Washington (the "City"), in the form of contract hereto annexed, and will to the extent of his bid provide the necessary machinery, tools, apparatus and other means of construction, and will furnish all materials and labor as specified in the manner herein specified and according to the requirements of the Engineer.

The bidder agrees that they will complete all work as required within 90 working days. The bidder further agrees that they will pay liquidated damages for delay in completion as specified in Standard Specification 1-08.9.

No Washington State Sales Tax will be paid by the City on labor or services on street related items of work. For street related items of work, the bidder shall include within the various bid item prices or other contract amounts any contractor-paid Washington State Retail Sales Tax on materials, equipment, or supplies used or consumed in doing the work. For non-street related items of work, including water and sewer, Washington State Retail Sales Tax will be paid by the City and the amount of such tax shall be separately stated by the bidder in the space provided on this Bid Proposal form.

STREET-RELATED ITEMS

Item No.	Estimated Quantity	Item	Unit Price In Figures	Total Bid
1	30,000	Crack Seal (pounds)	$ 2.26	$ 67,800
2	Per Pound of Product Applied	Temp Erosion and Sediment Control	$ 1.00	$ 1.00 **
3	Per Pound of Product Applied	Project Temporary Traffic Control per Lump Sum	$ 1.00	$ 1.00 **

TOTAL $ 67802.00 **

** See Bid Tabulation referencing the calculation error of not multiplying the price per unit ($1.00) by the estimated quantity (30,000 pounds).

TOTAL BID AMOUNT: $ 67,802.00

Accompanying this Bid Proposal is cash, certified check or bid bond payable to the City Finance Director, this being the amount not less than five percent (5%) of the total bid including sales tax if applicable, based upon the above price according to the conditions of the Notice to Bidders and Special Provisions. If this Bid Proposal is accepted by the City, and the undersigned fails to execute a satisfactory contract and payment and performance contract bond, as stated in contract attached, then the City may, at its option, determine that the undersigned has abandoned the contract and thereupon this contract shall be null and void, and the security accompanying this Bid Proposal shall be forfeited to the City. Otherwise the security accompanying this proposal shall be returned to the undersigned.

Dated this 4th day of Sept., 2024

By signing this Bid Proposal I duly swear that this bid herewith submitted is a genuine and not a sham or collusive bid, or made in the interest or on behalf of any person not therein named; and I further say that I have not directly or indirectly induced or solicited any bidder on the above work or supplies to put in a sham bid, or any other person or corporation to refrain from bidding; and that I have not in any manner sought collusion to secure to myself an advantage over any other bidder or bidders.

By signing this bid I acknowledge receipt of all Addenda (if any) and I acknowledge that I have verified this information by checking on the City's website for any Addenda that have been issued.

Submitted by:

Name of Bidder: Huizenga Enterprises LLC

Address of Bidder: PO Box 31944, Bellingham, WA 98228

Phone: 360-303-8061 Fax: _____

Email: richard@huizengaenterprises.com

Signature of Authorized Agent: _____

Print Name of Authorized Agent: Richard Huizenga

Contractor UBI Number: 602909899

Employment Security Department Number: 000 574431-001

STATE OF WASHINGTON }
COUNTY OF } **ss**

I CERTIFY that I know or have satisfactory evidence that RICHARD HUIZENGA, signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of HUIZENGA ENTERPRISES, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

9/4/24
DATED

Jessica Lembo
SIGNATURE OF NOTARY PUBLIC

(Seal or Stamp)

JESSICA LEMBO
NOTARY
My Comm. Expires
June 22, 2025
No. 84066
PUBLIC
STATE OF WASHINGTON

JESSICA LEMBO
PRINTED NAME

Notary Public
TITLE

6.22.25
MY APPOINTMENT EXPIRES

Todd Baker, Project Manager

BID TABULATION - **BID #36B-2024**
BIDS OPENED: September 4, 2024; 11:00 a.m.
PROJECT: 2024 Crack Seal Program

				ENGINEER'S ESTIMATE		Huizenga Enterprises LLC			Central Paving LLC			C.R. Contracting LLC			Doolittle Construction LLC			Construction Ahead Inc dba Pavement Surface Control		
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION		UNIT PRICE	EXTENSION		UNIT PRICE	EXTENSION		UNIT PRICE	EXTENSION		UNIT PRICE	EXTENSION	
1	Crack Seal (pounds)	30,000	LB	$ 7.00	$ 210,000.00	$2.26	$67,800.00	32%	$6.29	$188,700.00	90%	$6.32	$189,600.00	90%	$8.00	$240,000.00	114%	$7.82	$234,600.00	112%
2	Temp Erosion and Sediment Control - per pound of product applied	30,000	LB	$ 1.00	$ 30,000.00	$1.00	$30,000.00	100%	$0.05	$1,500.00	5%	$0.92	$27,600.00	92%	$0.08	$2,400.00	8%	$1.00	$30,000.00	100%
3	Project Temporary Traffic Control - per pound of product applied	30,000	LB	$ 1.00	$ 30,000.00	$1.00	$30,000.00	100%	$1.10	$33,000.00	110%	$1.15	$34,500.00	115%	$1.35	$40,500.00	135%	$4.61	$138,300.00	461%
	PROJECT TOTAL				$ 270,000.00		$ 127,800.00			$ 223,200.00			$ 251,700.00			$ 282,900.00			$ 402,900.00	

Red indicates corrected calculation error

MANDATORY BIDDER RESPONSIBILITY CHECKLIST

Bid Number: 36B-2024	Bid Submittal Deadline: 9/4/2024
Project Name: 2024 Crack Seal	Project Number: 36B-2024
Bidder's Business Name: Huizenga Enterprises LLC dba Asphalt Industries	City Business Registration Number: 037471 Active? Yes ☒ No ☐

CONTRACTOR REGISTRATION

https://secure.lni.wa.gov/verify/

License Number: HUIZEEL911JC	License Active? Yes ☒ No ☐
Effective Date: 4/3/2009	Expiration Date: 4/3/2025

UBI/TAX REGISTRATION NUMBER

https://secure.dor.wa.gov/gteunauth/ (go to Business Lookup)

UBI/TAX Registration Number: 602909899	Account: Open ☒ Closed ☐

INDUSTRIAL INSURANCE COVERAGE

https://fortress.wa.gov/lni/crosi/MainMenu.aspx

Account Number: 02866301	Account Current? Yes ☒ No ☐

EMPLOYMENT SECURITY DEPARTMENT

Employment Security Department Number: 000 574431-001	
Has Bidder provided account number on the Bid Form?	Yes ☒ No ☐

NOT DISQUALIFIED FROM BIDDING

https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx

Is the Bidder listed on the "Debarred Contractors List" list of the Washington State Department of Labor and Industries Website?	Yes ☐ No ☒ *Attach printout from website*

https://www.SAM.gov/ (go to Search Records)

Is the bidder listed on the current debarred or suspended bidder list available on the U.S. General Services Administration's System for Award Management ("SAM") website?	Yes ☐ No ☒ *Attach printout from website*

BIDDER CERTIFICATIONS

1. The bidder hereby certifies under penalty of perjury under the laws of the State of Washington that, within the 3-year period immediately preceding the bid solicitation date, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of RCW 49.46, 49.48, or 49.52, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.
2. The undersigned further certifies that bidder (check one):
   - ☐ Has received training on the requirements related to public works and prevailing wage as mandated in RCW 39.04.350(1)(f) or
   - ☒ Is exempt from such training because it has completed three or more public works projects and has had a valid business license in Washington for three or more years.
3. The undersigned further certifies that all other information provided by or on behalf of bidder on this form is true and correct.

Signature of Authorized Official	Date: 9/3/2024
Richard Huizenga, Manager Print Name & Title	Bellingham, WA Place of Execution (City & State)

CITY VERIFICATION

KD

City Purchasing Manager or Designee	Date: 9/9/24

Has bidder satisfied applicable supplemental responsibility criteria? Yes ☑ No ☐
Documentation on file

City Council Agenda Bill

24263

Bill Number

Subject: **The Bellingham Police Department's Intent to Apply for the BJA FY24 Edward Byrne Memorial Justice Assistance Grant**

Summary Statement: The Bellingham Police Department is seeking Council approval to apply for the BJA FY24 Jag Grant. The total grant allocation for Whatcom County is $40,170. City of Bellingham is allocated $28,661 and Whatcom County is allocated $11,509.00. The Police Department would like to purchase four more bicycles for additional officers added to the Bicycle Response Team (BRT) which is specific to crowd management and a few more WRAP restraint systems, which allow more officers to carry them in their vehicle, as we only have three at this time. This system allows the officers to safely get control of a subject to get them help while reducing the chance of injury for all parties. The WRAP is designed to stop conflicts quickly, achieve fast de-escalation and provide rapid recovery to both subjects and officers.

Previous Council Action: **Approved every year for the past 15 years**

Fiscal Impact: **Net Nuetral**

Funding Source: **Edward Byrne Memorial Justice Assistance**

Attachments:
1. 2024 JAG GRANT APPLICATION
2. BUDGET NARRATIVE AND POLICY

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Vote to Approve	Chief Rebecca Mertzig	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Renee Firos, Administrative Coordinator

Council Action:

Reviewed By	Department	Date
Rebecca K. Mertzig	Police Department	09/23/2024
Andrew D. Asbjornsen	Finance	09/24/2024
Michael E. Good	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

OMB No. 1121-0329
Approval Expires 2/28/2027

U.S. Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Solicitation Title: BJA FY24 Edward Byrne Memorial Justice Assistance Grant (JAG) Program—Local Solicitation
Assistance Listing Number 16.738
Grants.gov Opportunity Number: O-BJA-2024-172239
Solicitation Release Date: September 4, 2024
Step 1: Application Grants.gov Deadline: 8:59 p.m. Eastern Time on October 16, 2024
Step 2: Application JustGrants Deadline: 8:59 p.m. Eastern Time on October 22, 2024

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Synopsis

Program Description Overview

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) seeks applications for formula funding to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings to states to support a range of program areas under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program—Local Solicitation.

With this solicitation, the Bureau of Justice Assistance (BJA) seeks to award Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds to eligible units of local government. (BJA will issue a separate solicitation for applications from states.)

For more information on the JAG Program, please refer to the JAG Fact Sheet and/or JAG Frequently Asked Questions (FAQs).

OJP is committed to advancing work that promotes civil rights and equity, increases access to justice, supports crime victims and individuals impacted by the justice system, strengthens community safety, protects the public from crime and evolving threats, and builds trust between law enforcement and the community.

This program furthers the DOJ's mission to uphold the rule of law, to keep our country safe, and to protect civil rights.

Funding Category

Competition ID	Competition Title (Category Name)	Expected Number of Awards	Dollar Amount for Award	Performance Start Date	Performance Duration (Months)
C-BJA-2024-00091-PROD	Category 1—Applicants with eligible allocation amounts of less than $25,000	587	$9,041,009	10/1/2023	24
C-BJA-2024-00092-PROD	Category 2—Applicants with eligible allocation amounts of $25,000 or more	553	$75,880,039	10/1/2023	48

Eligibility

- Special district governments
- City or township governments
- County governments
- Native American tribal governments (Federally recognized)

By law, for purposes of the JAG Program, the term "units of local government" includes a town, township, village, parish, city, county, borough, or other general-purpose political subdivision of a state, or it may be a federally recognized American Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government also may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

The eligible allocations by state for the fiscal year (FY) 2024 JAG Program can be found at: https://bja.ojp.gov/program/jag/overview.

Eligible allocations under the JAG Program are posted annually on the JAG web page. See the Allocation Determination and Units of Local Government Requirements Regarding Use of JAG Funds section for more information. **Applicants with eligible allocation amounts of less than $25,000 will apply to Category 1, and applicants with eligible allocation amounts of $25,000 or more will apply to Category 2.**

Agency Contact Information

For assistance with the requirements of this solicitation, contact the OJP Response Center by phone at 800-851-3420, 301-240-6310 (TTY for hearing-impaired callers only), or email grants@ncjrs.gov. The OJP Response Center operates from 10:00 a.m. to 6:00 p.m. ET Monday–Friday and from 10:00 a.m. to 8:00 p.m. ET on the solicitation close date.

For procedures related to unforeseen technical issues beyond the control of the applicant that impact submission by the deadlines, see the "How To Apply" section, Experiencing Unforeseen Technical Issues.

For assistance with submitting the Application for Federal Assistance standard form (SF-424) and a Disclosure of Lobbying Activities (SF-LLL) in Grants.gov, contact the Grants.gov Customer Support Hotline at 800-518-4726, 606-545-5035, Grants.gov Customer Support, or support@grants.gov. The Grants.gov Support Hotline is open 24 hours a day, 7 days a week, except on federal holidays.

For technical assistance with submitting the **full application** in JustGrants, contact the JustGrants Service Desk at 833-872-5175 or JustGrants.Support@usdoj.gov. The JustGrants Service Desk operates from 7:00 a.m. to 9:00 p.m. ET Monday–Friday and from 9:00 a.m. to 5:00 p.m. ET on Saturday, Sunday, and federal holidays.

Application Submission Information

Registration

Before submitting an application, an applicant must have a registration in the System for Award Management (SAM.gov).

Submission

Applications must be submitted to DOJ electronically through a two-step process that begins in Grants.gov and is completed in JustGrants. See the Submission Dates and Time section for the Grants.gov and JustGrants application deadlines.

Step 1: The applicant must register for this opportunity in Grants.gov at https://grants.gov/register and submit by the Grants.gov deadline the required Application for Federal Assistance standard form (SF-424) and a Disclosure of Lobbying Activities (SF-LLL). See the Submission Dates and Time section for application deadlines.

Step 2: The applicant must submit the **full application,** including attachments, in JustGrants at JustGrants.usdoj.gov by the JustGrants application deadline. See the Submission Dates and Time section for application deadlines.

Program Description

Program Description Overview

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA) seeks applications for formula funding to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings to states to support a range of program areas under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program—Local Solicitation. This program furthers the DOJ's mission to uphold the rule of law, to keep our country safe, and to protect civil rights.

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OJP is committed to advancing work that promotes civil rights and equity, increases access to justice, supports crime victims and individuals impacted by the justice system, strengthens community safety, protects the public from crime and evolving threats, and builds trust between law enforcement and the community.

Statutory Authority

The JAG Program is authorized by Title I of Public Law 90-351 (generally codified at 34 U.S.C. 10101-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151-10158); see also 28 U.S.C. 530C(a).

Specific Information

Statutory Formula

JAG awards are based on a statutory formula that is fully described within the JAG Technical Report. Once each fiscal year's overall JAG Program funding level is determined, BJA works with the Bureau of Justice Statistics to begin a four-step grant award calculation process, which generally consists of the following:

1. Computing an initial JAG allocation for each state, based on its share of violent crime and population (weighted equally).
2. Reviewing the initial JAG allocation amount to determine whether the state allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on its share of violent crime and population.
3. Dividing each state's final award amount (except for the territories and the District of Columbia) between the state and its units of local governments at rates of 60 and 40 percent, respectively.
4. Determining award allocations for the units of local government, which are based on their proportion of the state's 3-year violent crime average. If the "eligible award amount" for a particular unit of local government, as determined on this basis, is

$10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local Solicitation) for a JAG award. If the "eligible award amount" for a particular unit of local government, as determined on this basis, is less than $10,000, the funds are not made available for a direct award to that particular unit of local government but instead are added to the amount that is awarded to the state.

Allocation Determination and Units of Local Government Requirements Regarding Use of JAG Funds

Eligible allocations under JAG are posted annually on the JAG web page.

According to the JAG Program statute, a "disparity" may exist between the funding eligibility of a county and its associated municipalities. See 34 U.S.C. § 10156(d)(4). Units of local government identified by BJA as disparate must select a fiscal agent that will submit an application for the allocation that includes all disparate municipalities. A memorandum of understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by each participating jurisdiction's authorized representative. Once an award is made, the fiscal agent will be responsible for distributing award funds to the other jurisdictions in the disparate group through subawards that include all appropriate award conditions. To verify eligibility, an applicant should visit the JAG web page, click on their respective state, and note the following regarding the state's allocation table:

1. Disparate units of local government are listed in shaded groups, in alphabetic order by county. Units of local government identified as disparate must select one unit of local government to submit an application on behalf of the disparate group.
2. Counties that have an asterisk (*) under the "Direct Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and be a signatory on the required MOU.
3. Direct allocations are listed alphabetically below the shaded disparate groupings.

Please note that disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and documenting individual allocations in the MOU. See the JAG FAQs for more information. A sample MOU is also available.

Statutory Program Areas

In general, JAG funds awarded to a unit of local government under the FY 2024 program may be used to hire additional personnel and/or purchase equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice or civil proceedings, including for any one or more of the following program areas:

1. Law enforcement programs.
2. Prosecution and court programs.
3. Prevention and education programs.
4. Corrections and community corrections programs.
5. Drug treatment and enforcement programs.
6. Planning, evaluation, and technology improvement programs.

7. Crime victim and witness programs (other than compensation).
8. Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.
9. Implementation of state crisis intervention court proceedings and related programs or initiatives, including but not limited to mental health courts, drug courts, veterans courts, and extreme risk protection order programs.

In connection with all of the above purposes, it should be noted that the JAG statute, at 34 U.S.C. § 10152, defines "criminal justice" as "activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency."

BJA Areas of Emphasis

BJA recognizes that many state and local justice systems currently face challenging fiscal environments, and an important, cost-effective way to relieve those pressures is to share or leverage resources through cooperation among federal, state, and local criminal justice agencies and community-based public safety partners. Key areas of priority for BJA include: Prevention and Prosecution of Hate Crimes, Election Security, Enhancing Justice System Reform Strategies, Advancing Equity and Support for Underserved Communities, and Violent Crime Reduction.

BJA encourages recipients of FY 2024 JAG funds to coordinate with federal criminal justice agencies and other stakeholders, including communities most impacted by crime and violence, in addressing these challenges. Additional details on the BJA areas of emphasis can be found below.

Prevention and Prosecution of Hate Crimes

Hate crimes (sometimes called bias-motivated crimes) are criminal offenses motivated by some form of bias toward victims based on their perceived or actual race, color, ethnicity, religion, national origin, sexual orientation, gender, gender identity, or disability. Hate crimes have a devastating effect beyond the harm inflicted on any one victim. They reverberate through families, communities, and the entire nation as others fear that they too may be threatened, attacked, or forced from their homes because of what they look like, who they are, where they worship, whom they love, or whether they have a disability. As with most other crimes, hate crimes in the United States are primarily investigated under state law and prosecuted by local, state, and tribal authorities. However, reluctance from victims and witnesses to contact law enforcement about hate crime incidents may arise from perceptions of bias, distrust of law enforcement or the criminal justice system, or barriers such as language and concerns about immigration status. Hate crimes are chronically underreported to and under-identified by law enforcement. Tools such as the U.S. Bureau of Justice Statistics' National Crime Victimization Survey (NCVS) and the Federal Bureau of Investigation's (FBI's) Uniform Crime Reporting (UCR) program and FBI's Crime Data Explorer (CDE) shed some light on trends among those hate crimes reported to law enforcement or through NCVS. Although hate crimes are often

underreported, in recent years, there have been alarming spikes in hate crimes and threats of violence across the country, often fueled by online hate forums. In 2022, the most recently published data, hate crimes were at their highest recorded levels as reported to the FBI UCR program. In addition to those incidents reported through the UCR program, in 2023, jurisdictions from across the country reported increases in threats and attacks motivated by antisemitism or Islamophobia, target certain educational institutions such as Historically Black Colleges and Universities, or target individuals on the basis of their gender identity or sexual orientation.

During a November 2023 United Against Hate Virtual Forum, Attorney General Merrick Garland addressed the recent spike in hate crimes, and reemphasized that, "Combating hate-fueled violence remains central to the Justice Department's mission." A critical part of that mission is equipping state, local, and tribal justice agencies with the tools and resources to address hate crimes. Research from the National Institute of Justice (NIJ) indicates that despite the known underreporting of hate crimes, many state and local law enforcement agencies do not have adequate tools to identify, investigate, and respond to hate crimes, and only 23 percent of law enforcement agencies that responded to the survey reported any hate crime investigations in 2018.

BJA encourages JAG recipients to utilize funding to promote change and accountability by supporting state, local, and tribal efforts to prevent hate crimes, build trust with communities to encourage reporting of hate-related criminal offenses and incidents, and promote efforts to fully investigate and prosecute hate crimes when they do occur. This includes ensuring those agencies that have not yet transitioned to the National Incident Based Reporting System (NIBRS) doing so expeditiously to ensure that national hate crime statistics are as accurate as possible. More information on BJA's portfolio addressing hate crimes, including the Emmett Till Cold Case Investigations and Matthew Shepard and James Byrd, Jr. Hate Crimes Programs, can be found Hate Crime | Bureau of Justice Assistance.

Election Security

In 2021, the Department launched a law enforcement task force to address the rise in threats against election workers, administrators, officials, and others associated with the electoral process. For more information regarding the Department's efforts to combat threats against election workers, read the Deputy Attorney General's memo. The task force, announced by Attorney General Merrick B. Garland and launched by Deputy Attorney General Lisa O. Monaco in June 2021, has led DOJ's efforts to address threats of violence against election workers, and to ensure that all election workers—whether elected, appointed, or volunteer—are able to do their jobs free from threats and intimidation. The task force engages with election-related stakeholders and state and local law enforcement to assess allegations and reports of threats against election workers, and it has investigated and prosecuted these matters where appropriate, in partnership with FBI Field Offices and U.S. Attorneys' Offices throughout the country.

On January 9, 2024, the Department provided updated information pertaining to its efforts to "ensure that all qualified voters have the opportunity to cast their ballots and have their votes counted free of discrimination, intimidation, or criminal activity in the election process, and to ensure that our elections are secure and free from foreign malign influence and interference."

The broad criminal justice purposes supported by the JAG Program permit JAG funds to be used to deter, detect, and protect against threats of violence against election workers,

administrators, officials, and others associated with the electoral process. BJA encourages state and local JAG applicants to utilize JAG funding to prevent and respond to violent threats of this kind.

Enhancing Justice System Reform Strategies

The justice system serves an important role in protecting communities and seeking justice for victims. For the justice system to serve that role effectively, it must be fair, open, and equitable; utilize evidence-based approaches; and promote restorative practices and rehabilitation. For far too long, however, the justice system has not lived up to its promise. Racial disparities and other inequities, as well as overly harsh sentences, have driven up incarceration rates, which can create mistrust in the justice system and divert resources away from other urgent community needs. To build strong, safe, and healthy communities, it is critical to address the underlying, entrenched issues of inequity and disparity in the criminal justice system so that all persons receive equal treatment under the law. Jurisdictions should carefully review the ways in which the structures and incentives within their own systems are driving correctional populations and racial disparities and realign operations and target resources toward community solutions.

On May 25, 2023, the Department released a series of 10 new reports and guidance documents as part of its ongoing efforts to implement Executive Order 14704 on Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety. The announcement included commitments to update guidance prohibiting racial profiling by federal law enforcement agencies; develop methods to promote accreditation standards to encourage adoption of policies in the Executive Order by state, tribal, local, and territorial (STLT) law enforcement agencies; release a report on the Department's efforts to implement the First Step Act; and issue guidance on officer wellness, investigating in-custody deaths, and responses to individuals in crisis, among others.

The Office of Justice Programs is committed to advancing bold, effective justice reform solutions that deliver safety, equity, and justice for all. Justice system reform includes, but is not limited to, a wide range of investments in community safety and justice such as accountability of law enforcement to build and enhance community trust, alternatives to incarceration, ensuring the right to continuous and effective defense counsel, community supervision reforms, support for mental health and substance use treatment services, supporting community-driven programs and partnerships, and improving pretrial processes. Efforts to continue to address the backlog of court cases that grew dramatically during the pandemic would fall in this category. BJA also encourages state court leaders to access no-cost training and technical assistance (TTA) to support strategic planning, assessment of needs and strategies and new approaches to address rights protected under the sixth amendment to the U.S. Constitution, such as speedy trial, fair and impartial juries, the right to call and cross-examine witnesses, and the right to counsel. Visit https://www.strengthenthesixth.org/ for more information.

Finally, BJA has launched a Justice Reinvestment Initiative (JRI) website which provides detailed information, including state snapshots, on how state leaders can work with experts to conduct agency-spanning data analysis; develop and implement data-driven, tailored solutions to address complicated criminal justice challenges; and maximize resources to achieve stronger and safer communities. BJA encourages JAG recipients to utilize funding for projects that promote all aspects of justice system reform.

Advancing Equity and Support for Underserved Communities

Consistent with the Presidential Memorandum on Restoring the Department of Justice's Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable and Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the federal government, the Department is committed to ensuring equal access to justice and identifying and reducing disparities that exist throughout the criminal and civil legal systems, as well as removing barriers to ensure equal opportunity for communities that have been historically underserved, marginalized, and adversely affected by inequality. This commitment is evidenced by the April 14, 2022, Equity Action Plan designed to increase equity, opportunity, and resources for the most vulnerable communities. BJA encourages JAG recipients to use funds to support efforts at the state, territory, local, and tribal levels to institute more effective and equitable criminal justice policies and practices, foster public trust, and enhance public safety and security by increasing engagement with community members and building partnerships with community organizations to develop a shared vision and approach to addressing crime. This includes support for strategies to ensure the protection of defendants' and incarcerated individuals' constitutional rights and safety, as well as efforts to address wrongful convictions and conviction integrity. This also includes supporting technological or personnel upgrades to provide more equitable access to justice, including language access resources, resources to better serve those with disabilities, rural communities, and indigent defense representation. Finally, this can include efforts to build partnerships between the criminal justice system and nonprofits to provide support for collaborative, community-driven and informed efforts, such as community-based diversion programs outside of the criminal justice system, increasing access to resources to support the right to counsel, and developing community-driven and informed prevention programs or responses to violent crime.

Violent Crime Reduction

In May 2021, the Department launched a comprehensive violent crime reduction strategy to protect American communities from violent crimes, including gun violence. On December 11, 2023, Attorney General Merrick B. Garland announced the release of the Justice Department's Violent Crime Reduction Roadmap, a one-stop shop of federal resources to assist local jurisdictions in developing, implementing, and evaluating strategies to prevent, intervene in, and respond to violent crime. The Roadmap helps connect jurisdictions with the information and resources they need to meet the complex and evolving challenges to help reduce violent crime.

Additionally, on April 3, 2024, Attorney General Garland delivered remarks at a convening of grantees under OJP's Community Based Violence Intervention and Prevention Initiative. He emphasized that the Department's approach to disrupting violent crime is "centered on our partnerships—both with the communities harmed by violent crime and with the law enforcement agencies that protect those communities. Our department-wide anti-violent crime strategy leverages the resources of our federal prosecutors, agents, investigators, grant programs, and criminal justice experts toward those ends. We are working closely with local and state law enforcement agencies, with officials across government, and with the communities most affected by this violence, and with the community organizations on the front lines—all toward one goal: the goal of making our communities safer."

BJA encourages JAG grantees to invest funds to tailor programs and responses to state and local crime issues through the use of data and analytics; coordinate with United States Attorneys Project Safe Neighborhoods grantees and community violence intervention strategies

in order to leverage funding for crime and violence reduction projects and coordinate their law enforcement activities with those of federal law enforcement agencies such as the FBI, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration, the United States Marshals Service, and the Department of Homeland Security; and form partnerships with federal, state, and local law enforcement and prosecutors to identify persons who use guns to commit a crime and who purchase or sell guns illegally. This includes ensuring that persons prohibited from purchasing firearms (see e.g.,18 U.S.C. § 922(g)) are prevented from doing so by ensuring complete, accurate, and timely access to the FBI's National Instant Criminal Background Check System (NICS) and the timely submission of all necessary records into the FBI databases, which will help prevent illegal transfers of firearms to those who are prohibited from owning firearms under current law. BJA also encourages JAG grantees to invest in implementing programs that provide training, assistance, and resources to law enforcement agencies to mitigate the current crisis in law enforcement recruitment and retention; enhance community policing approaches; bolster the security of at-risk places of worship such as synagogues, churches, and mosques; provide security for election workers; enforce commonsense gun laws; and upgrade systems and/or purchase technology that support agency strategies to reduce violent crime and enhance their capacity to better address crime.

Additional Uses of JAG Funds

JAG funds awarded under this solicitation may also be used to:

- Support reentry projects with the goal of improving outcomes for incarcerated individuals returning to the community from prison or jail.
- Support public defense systems, including the hiring and retention of attorneys.
- Support projects related to preventing, detecting, seizing, and/or stopping the presence and use of contraband cellphones within correctional facilities. This includes the purchasing of managed access systems and other mitigation technologies (as permitted by applicable law).
- Purchase fentanyl and methamphetamine detection equipment, including handheld instruments and training for law enforcement safety, as well as opioid reversal agents.
- Purchase drug-detection canines to combat the rise of drug trafficking, including that of methamphetamines.
- Support efforts to seal and expunge criminal history information in accordance with state laws and policies.
- Support efforts to attract and retain an inclusive, diverse, expert, and accountable law enforcement workforce that reflects the community it serves.
- Support virtual reality de-escalation training.
- Purchase humane remote restraint devices that enable law enforcement to restrain an uncooperative subject without inflicting pain.
- Purchase gunfire detection technology.
- Support implementation of Rapid DNA at the booking station to include assisting with the initial costs associated with updating criminal history systems, integration with booking station systems, and purchasing new technologies associated with Rapid DNA at the booking station (Note: JAG funds may not be used for Rapid DNA testing of evidentiary material; see the "DNA Testing of Evidentiary Materials and Uploading DNA Profiles to a Database" section for more information on the topic).
- Purchase an Electronic Tracing System (eTrace)

- Purchase a NIBIN Enforcement Support System (NESS)

Additionally, JAG funds awarded under this solicitation may be used for any purpose indicated here: Purposes for Which Funds Awarded Under the Edward Byrne Memorial Justice Assistance Grants (JAG) Program May Be Used.

Limitations on the Use of JAG funds

Administrative Costs

Up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award, which can include indirect costs.

Supplanting

JAG funds may not be used to supplant state or local funds but must be used to increase the amount of such funds that would, in the absence of federal funds, be made available. See the JAG FAQs for examples of supplanting. Although supplanting is prohibited, BJA encourages the leveraging of federal funding.

Matching Funds

Absent specific federal statutory authority to do so, JAG award funds may not be used as a match for other federal awards.

Prohibited and Controlled Equipment and Associated Procedures under JAG

The JAG statute, at 34 U.S.C. § 10152(d), specifically identifies a list of prohibited items. In addition, consistent with Executive Order 14074, Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety of May 25, 2022, the use of OJP grant funds for the purchase or transfer of certain equipment has been designated as prohibited or controlled starting with FY 2023 OJP grant funds. Details and associated procedures for requesting prior approval, where applicable, can be found in the JAG Prohibited and Controlled Equipment Guidance and the JAG FAQs.

Other Program Requirements

A unit of local government that applies for and receives an FY 2024 JAG award must note the following:

Trust Fund

Units of local government may draw down JAG funds either in advance or on a reimbursement basis. To draw down in advance, a trust fund must be established in which to deposit the funds. The trust fund must be in an interest-bearing account, unless one of the exceptions in 2 C.F.R. § 200.305(b)(8) apply. If subrecipients draw down JAG funds in advance, they also must establish a trust fund in which to deposit the funds. For additional information, see 2 C.F.R. § 200.305.

Certifications and Assurances by the Chief Executive of the Applicant Government (Which Incorporates the 30-Day Governing Body Review Requirement)

A JAG application is not complete, and a unit of local government may not access award funds, unless the chief executive of the applicant unit of local government (e.g., the mayor) properly executes, and the unit of local government submits, the "Certifications and Assurances by the Chief Executive of the Applicant Government." The most up-to-date version of this certification can be found at: FY24 JAG—Certifications and Assurances by the Chief Executive of the Applicant Government. Please note that this certification contains assurances that the governing

body notification and public comment requirements, which are required under the JAG statute (at 34 U.S.C. § 10153(a)(2)), have been satisfied. Please note that this certification contains assurances that the governing body notification and public comment requirements, which are required under the JAG statute (at 34 U.S.C. § 10153(a)(2)), have been satisfied.

Please note that only direct JAG award recipients must provide this certification to OJP and that prior to making any subawards (including subawards to disparate jurisdictions), the direct JAG award recipient must collect a completed certification from the proposed subrecipient. Any such certifications must be maintained by the direct JAG award recipient and made available to OJP upon request. OJP will not deny an application for a JAG award for failure to submit these "Certifications and Assurances by the Chief Executive of the Applicant Government" by the application deadline, but a unit of local government will not be able to access award funds (and its award will include a condition that withholds funds) until it submits these certifications and assurances properly executed by its respective chief executive (e.g., the mayor).

Minimum Requirements for Extreme Risk Protection Order Programs (ERPOs)

An extreme risk protection order (ERPO) empowers law enforcement, and in some states, family members, health care providers, and others to petition a court for a civil order that temporarily prevents a person from accessing firearms if they are found to be a danger to themselves. If grantees use their JAG funds to support ERPO programs, ERPO programs must include, at a minimum:

1. Pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the Constitution of the United States, including, but not limited to, the Bill of Rights and the substantive or procedural due process rights guaranteed under the 5th and 14th amendments to the Constitution of the United States, as applied to the States and as interpreted by State courts and United States courts (including the Supreme Court of the United States). Such programs must include at the appropriate phase to prevent any violation of constitutional rights, at minimum, notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses.
2. The right to be represented by counsel at no expense to the government.
3. Pre-deprivation and post-deprivation heightened evidentiary standards and proof which mean not less than the protections afforded to a similarly situated litigant in Federal court or promulgated by the State's evidentiary body, and sufficient to ensure the full protections of the Constitution of the United States, including but not limited to the Bill of Rights and the substantive and procedural due process rights guaranteed under the 5th and 14th amendments to the Constitution of the United States, as applied to the States and as interpreted by State courts and United States courts (including the Supreme Court of the United States). The heightened evidentiary standards and proof under such programs must, at all appropriate phases to prevent any violation of any constitutional right, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation.
4. Penalties for abuse of the program.

Prior to the expenditure of FY24 JAG funds for an ERPO program, a Certification of Compliance with Pub. L. No. 90-351, Title I, Sec. 501(a)(1)(I)(iv) must be signed by a principal legal officer and submitted to BJA. See the JAG FAQs for additional information.

Body-worn Cameras (BWCs)

A JAG award recipient that proposes to use FY 2024 funds to purchase BWC equipment or implement or enhance BWC programs must provide to OJP a certification(s) that each direct recipient receiving the equipment or implementing the program has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training. The certification form related to BWC policies and procedures can be found at: JAG—Body-Worn Camera (BWC) Policy Certification.

Further, before making any sub-awards (including sub-awards to disparate jurisdictions) for BWC-related expenses, the direct JAG award recipient must collect a completed BWC certification from the proposed subrecipient. Any such certifications must be maintained by the direct JAG award recipient and made available to OJP upon request. The BJA BWC Toolkit provides model BWC policies and best practices to assist criminal justice departments in implementing BWC programs.

Apart from the JAG Program, BJA provides funds under the Body-worn Camera Policy and Implementation Program (BWCPIP). BWCPIP allows jurisdictions to develop and implement policies and practices required for effective program adoption, and to address program factors including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. Interested JAG award recipients may wish to refer to the BWC Partnership Program web page for more information. JAG award recipients that are also BWC award recipients may not use JAG funds for any part of the 50 percent match required by the BWC Program.

Body Armor

Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the following requirements are met: The body armor must have been tested and found to comply with the latest applicable National Institute of Justice ballistic or stab standards https://cjtec.org/compliance-testing-program/compliant-product-lists/. In addition, body armor purchased must be made in the United States.

Body armor purchased with JAG funds must be "uniquely fitted vests," which means protective (ballistic or stab-resistant) armor vests that conform to the individual wearer to provide the best possible fit and coverage through a combination of (1) correctly sized panels and carrier determined through appropriate measurement and (2) properly adjusted straps, harnesses, fasteners, flaps, or other adjustable features. Note that the requirement that body armor be "uniquely fitted" does not necessarily require body armor that is individually manufactured based on the measurements of an individual wearer. In support of OJP's efforts to improve officer safety, the American Society for Testing and Materials (ASTM) International has made available the Standard Practice for Body Armor Wearer Measurement and Fitting of Armor (Active Standard ASTM E3003) at no cost. The Personal Armor Fit Assessment Checklist is excerpted from ASTM E3003. A mandatory wear concept and issues paper and a model policy are available from the BVP Customer Support Center, which can be contacted at vests@usdoj.gov or toll free at 1–877–758–3787. Additional information and FAQs related to the mandatory wear policy and certifications can be found in the JAG FAQs.

A JAG award recipient that proposes to purchase body armor with JAG funding must provide to OJP a certification(s) that it has a written "mandatory wear" policy in effect (see 34 U.S.C. § 10202(c)). The certification form related to mandatory wear can be found at: JAG Body Armor

Mandatory Wear Policy Certification. Further, before making any sub-awards (including sub-awards to disparate jurisdictions) for body armor purchases, the direct JAG award recipient must collect a completed body armor certification from the proposed subrecipient. Any such certifications must be maintained by the direct JAG award recipient and made available to OJP upon request.

Apart from the JAG Program, BJA provides funds under the Patrick Leahy Bulletproof Vest Partnership (BVP) Program. The BVP Program provides funding to state and local law enforcement agencies for the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and an application, refer to the BVP web page. JAG award recipients should note, however, that funds may not be used for any part of the 50 percent match required by the BVP Program.

Interoperable Communications

States (including any subrecipients) that are using JAG funds for emergency communications activities should comply with current SAFECOM Guidance, which is available at: https://www.cisa.gov/safecom/funding.

Additionally, emergency communications projects funded with JAG funds should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the full-time statewide interoperability coordinator (SWIC) in the state of the project. As the central coordination point for a state's interoperability effort, the SWIC plays a critical role and can serve as a valuable resource. SWICs are responsible for the implementation of SCIP through coordination and collaboration with the emergency response community. CISA maintains a list of SWICs for each state and territory. Contact ecd@cisa.dhs.gov for more information. All communications equipment purchased with JAG funding should be identified during the quarterly performance measurement reporting.

DNA Testing of Evidentiary Materials and Uploading DNA Profiles to a Database

If JAG Program funds are to be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS), the national DNA database operated by the FBI, by a government DNA lab with access to CODIS. **JAG funds may not be used for Rapid DNA testing of evidentiary material (e.g., crime scene samples, sexual assault kits) because the FBI has not authorized results of this testing for upload to CODIS.** No DNA profiles generated with JAG funding may be entered into any other nongovernmental DNA database without prior written approval from BJA (exceptions include forensic genealogy). Additionally, award recipients utilizing JAG funds for forensic genealogy testing must adhere to the DOJ Interim Policy Forensic Genealogical DNA Analysis and Searching available at: https://www.justice.gov/olp/page/file/1204386/download. For more information about DNA testing as it pertains to JAG, please refer to the JAG FAQs.

Entry of Records into State Repositories

As appropriate and to the extent consistent with law, a special condition will be imposed that would require the following: Any program or activity that receives federal financial assistance under JAG that is likely to generate court dispositions or other records relevant to NICS determinations, including any dispositions or records that involve any noncitizen or migrant who is undocumented in the United States (18 U.S.C. § 922(g)(5)(A), must have a system in place to ensure that all such NICS-relevant dispositions or records are made available in a timely fashion.

National Incident-based Reporting System

In FY 2016, the FBI formally announced its intention to sunset the UCR program's traditional Summary Reporting System (SRS) and replace it with NIBRS by January 1, 2021. By statute, BJA JAG awards are calculated using summary part 1 violent crime data from the FBI's UCR program. Specifically, the formula allocations for JAG rely heavily on the ratio of "the average number of part 1 violent crimes of the UCR of the FBI reported by such State for the three most recent years reported by such State to the average annual number of such crimes reported by all States for such years" (34 U.S.C. 10156(a)(1)(B)). In preparation for the FBI's 2021 NIBRS compliance deadline, BJA imposed an administrative requirement for JAG award recipients that are not NIBRS compliant to dedicate 3 percent of their JAG award toward coming into full compliance with the FBI's NIBRS data submission requirement to both encourage and assist jurisdictions in working toward compliance and ensure they continue to have critical criminal justice funding available through JAG when SRS transitioned to NIBRS. A NIBRS set-aside is NOT required for FY 2024 awards; however, JAG recipients are encouraged to continue working toward and/or maintaining NIBRS compliance to ensure that JAG eligibility is not affected in future fiscal years. Local jurisdictions that are seeking NIBRS compliance certification should reach out directly to their respective state agency. Agencies with questions about the certification process may contact ucr-nibrs@fbi.gov. More information about NIBRS, including toolkits and updates from the FBI Criminal Justice Information Services team, can be found at: NIBRS—FBI.

Solicitation Goals and Objectives

Goals

In general, the JAG Program is designed to provide states with additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. Although the JAG Program provides assistance directly to states, through pass-through (and similar) requirements, the JAG Program also is designed to assist units of local government with respect to their criminal justice needs.

Objectives

The objectives are directly related to the JAG Program accountability measures described at: https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jag-pmt-accountability-measures.pdf.

For information about what the applicant needs to submit regarding Goals, Objectives, and Deliverables please see the "How To Apply" section on the Application Goals, Objectives, Deliverables, and Timeline Web-Based Form.

Federal Award Information

Awards, Amounts and Durations

Anticipated Number of Awards: 1,140

Category 1: 587

Category 2: 553

Anticipated Maximum Dollar Amount per Award:

Category 1 anticipated maximum amount: Up to $25,000

Category 2 anticipated maximum amount: Up to $4,023,772

Period of Performance Start Date: October 1, 2023

Period of Performance Duration (Months):

Category 1: 24 months
Category 2: 48 months
Anticipated Total Amount To Be Awarded Under This Solicitation: $84,921,048

Category 1—Eligible Allocation Amounts of Less than $25,000: Units of local government that are listed on the JAG web page as eligible for an allocation amount of less than $25,000 should apply under Category 1. This includes direct and joint (disparate) allocations. Category 1 awards of less than $25,000 are 2 years in length. Extensions of up to 2 years can be requested for these awards via JustGrants no fewer than 30 days prior to the project period end date and will be automatically granted upon request.

Category 2—Eligible Allocation Amounts of $25,000 or More: Units of local government that are listed on the JAG web page as eligible for an allocation amount of $25,000 or more should apply under Category 2. This includes direct and joint (disparate) allocations. Category 2 awards of at least $25,000 are 4 years in length. Extensions beyond this period may be made on a case-by-case basis at the discretion of BJA and must be requested via JustGrants no fewer than 30 days prior to the project period end date.

Competition ID	Competition Title (Category Name)	Expected Number of Awards	Dollar Amount for Award	Performance Start Date	Performance Duration (Months)
C-BJA-2024-00091-PROD	Category 1: Applicants with eligible allocation amounts of less than $25,000	587	Up to $25,000	10/1/2023	24
C-BJA-2024-00092-PROD	Category 2: Applicants with eligible allocation amounts of $25,000 or more	553	Up to $4,023,772	10/1/2023	48

Availability of Funds

This funding opportunity, and awards under this funding opportunity, are subject to the availability of funding and to any changes or additional requirements that may be imposed by the agency or by law. In addition, nothing in this solicitation is intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The FY 2024 enacted budget represents the largest cut to base resources that the Department of Justice (DOJ) has faced in the last 10 years. Therefore, to mitigate significant budget shortfalls, the funding available for this solicitation has been reduced by 2.5%. The Department understands how critical our grants are to our state, local, and tribal partners, and does not take this action lightly.

The allocations by state for the FY 2024 JAG Program can be found at: https://bja.ojp.gov/program/jag/allocations.

Type of Award

OJP expects to make awards under this funding opportunity as grants. See the "Administrative, National Policy, and Other Legal Requirements" section of the Application Resource Guide for a brief discussion of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants.

Cost Sharing or Matching Requirement

This solicitation does not require a match.

Eligibility Information

For the purposes of this notice of funding opportunity, other units of local government include towns, boroughs, parishes, villages, or other general purpose political subdivisions of a State.

How To Apply

Application Resources

When preparing and submitting an application, the following resources may aid prospective applicants:

1. Grants.gov "How to Apply for Grants"
2. OJP "How To Apply" section in the Application Resource Guide
3. JustGrants Application Submission Training

This solicitation (notice of funding opportunity) incorporates guidance provided in the OJP Grant Application Resource Guide (Application Resource Guide), which provides additional information for applicants to prepare and submit applications to OJP for funding. **If this solicitation requires something different from any guidance provided in the Application Resource Guide, the difference will be noted in this solicitation and the applicant is to follow the guidelines in this solicitation, rather than the guidance in the Application Resource Guide that is in conflict.**

How To Apply

Registration

Before submitting an application, all applicants must register with the System for Award Management (SAM.gov). An applicant must renew their registration every 12 months. If an applicant does not renew their SAM.gov registration, it will expire. An expired registration can delay or prevent application submission in Grants.gov and JustGrants. Applicants are encouraged to start the SAM.gov registration process at least 30 days prior to the application deadlines. Applicants who fail to begin the registration or renewal process at least 10 business days prior to the Grants.gov deadline may not complete the process in time and will not be considered for late submission.

Submission

Applications must be submitted to DOJ electronically through a two-step process that begins in Grants.gov and is completed in JustGrants.

Step 1: After registering with SAM.gov, the applicant must submit the **SF-424** and **SF-LLL** in Grants.gov at https://www.grants.gov/register by the Grants.gov deadline. **To leave time to address any technical issues that may arise, an applicant should submit the SF-424 and SF-LLL as early as possible and recommended not later than 48 hours before the Grants.gov deadline.** If an applicant fails to submit in Grants.gov by the deadline, they will be unable to apply in JustGrants. Applicants can confirm Grants.gov submission by verifying their application status shows as "submitted" or "agency tracking number assigned."

Step 2: The applicant must then submit the **full application**, including attachments, in JustGrants at JustGrants.usdoj.gov by the JustGrants deadline.

OJP recommends that applicants submit the complete application package in JustGrants at least 48 hours prior to the JustGrants deadline. Some of the required sections of the application will be entered directly into JustGrants, and other sections will require documents to be uploaded and attached. Therefore, applicants should allow enough time before the JustGrants deadline to prepare all the requirements of the application. Applicants may save their progress

in the system and add to or change the application as needed prior to hitting the "Submit" button at the end of the application in JustGrants.

An applicant will receive emails when successfully submitting in Grants.gov and JustGrants and should maintain all emails and other confirmations received from SAM.gov, Grants.gov, and JustGrants systems.

For additional information, see the "How To Apply" section in the Application Resource Guide and the DOJ Application Submission Checklist.

Submission Dates and Time

The **SF-424 and the SF-LLL** must be submitted in Grants.gov by 8:59 p.m. Eastern on October 16, 2024.

The **full application** must be submitted in JustGrants by 8:59 p.m. Eastern on October 22, 2024.

To be considered timely, the **full application** must be submitted in JustGrants by the JustGrants application deadline. Failure to begin the SAM.gov, Grants.gov, or JustGrants registration and application process in sufficient time (i.e., waiting until the due dates identified in this solicitation for those systems to begin the application steps) is not an acceptable reason to request a technical waiver.

Experiencing Unforeseen Technical Issues Preventing Submission of an Application (Technical Waivers)

OJP will only consider requests to submit an application after the deadline when the applicant can document that a technical issue with a government system prevented submission of the application on time.

If an applicant misses a deadline due to unforeseen technical issues with SAM.gov, Grants.gov, or JustGrants, the applicant may request a waiver to submit an application after the deadline. However, the waiver request will not be considered unless it includes documentation of attempts to receive technical assistance to resolve the issue prior to the application deadline. A tracking number is the most typical documentation and is generated when the applicant contacts the applicable service desks to report technical difficulties. Tracking numbers are generated automatically when an applicant emails the applicable service desks, and for this reason, long call wait times for support do not relieve the applicant of the responsibility of getting a tracking number.

An applicant experiencing technical difficulties must contact the associated service desk indicated below to report the technical issue and receive a tracking number:

- SAM.gov: contact the SAM.gov Help Desk (Federal Service Desk), Monday–Friday from 8:00 a.m. to 8:00 p.m. ET at 866-606-8220.
- Grants.gov: contact the Grants.gov Customer Support Hotline, 24 hours a day, 7 days a week, except on federal holidays, at 800-518-4726, 606-545-5035, or support@grants.gov.
- JustGrants: contact the JustGrants Service Desk at JustGrants.Support@usdoj.gov or 833-872-5175, Monday–Friday from 7:00 a.m. to 9:00 p.m. ET and Saturday, Sunday, and federal holidays from 9:00 a.m. to 5:00 p.m. ET.

If an applicant has technical issues with SAM.gov or Grants.gov, the applicant must contact the OJP Response Center at grants@ncjrs.govwithin **24 hours of the Grants.gov deadline** to request approval to submit after the deadline.

If an applicant has technical issues with JustGrants that prevent application submission by the deadline, the applicant must contact the OJP Response Center at grants@ncjrs.gov within **24 hours of the JustGrants deadline** to request approval to submit after the deadline.

Waiver requests sent to the OJP Response Center must—

- describe the technical difficulties experienced (provide screenshots if applicable);
- include a timeline of the applicant's submission efforts (e.g., date and time the error occurred, date and time of actions taken to resolve the issue and resubmit; and date and time support representatives responded);
- include an attachment of the complete grant application and all the required documentation and materials;
- include the applicant's Unique Entity Identifier (UEI); and
- include any SAM.gov, Grants.gov, and JustGrants Service Desk tracking numbers documenting the technical issue.

OJP will review each waiver request and the required supporting documentation and notify the applicant whether the request for late submission has been approved or denied. An applicant that does not provide documentation of a technical issue (including all information listed above), or that does not submit a waiver request within the required time period, will be denied.

For more details on the waiver process, OJP encourages applicants to review the "Experiencing Unforeseen Technical Issues" section in the Application Resource Guide.

Application and Submission Information

Content of the SF-424 in Grants.gov

The SF-424 must be submitted in Grants.gov. It is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. See the Application Resource Guide for additional information on completing the SF-424.

In Section 8F of the SF-424, please include the name and contact information of the individual **who will complete the application in JustGrants**. JustGrants will use this information *(email address)* to assign the application to this user in JustGrants.

Intergovernmental Review: This funding opportunity **is** subject to Executive Order (E.O.) 12372. An applicant may find the names and addresses of State Single Points of Contact (SPOCs) at the following website: https://www.whitehouse.gov/wp-content/uploads/2023/06/SPOC-list-as-of-2023.pdf. If the applicant's State appears on the SPOC list, the applicant must contact its SPOC to find out about, and comply with, the State's process under E.O. 12372. On the SF-424, an applicant whose State appears on the SPOC list is to make the appropriate selection in response to question 19, once the applicant has complied with its State E.O. 12372 process. An applicant whose State does not appear on the SPOC list should answer question 19 by selecting "Program is subject to E.O. 12372 but has not been selected by the State for review."

Content of the JustGrants Application Submission

Entity and User Verification (First Time Applicant)

For first time JustGrants applicants, once the application is received from Grants.gov, DOJ will send an email (from DIAMD-NoReply@usdoj.gov) to the individual listed in Section 8F of the SF-424 with instructions on how to create a JustGrants account. This email should arrive within 24 hours after this individual receives confirmation from Grants.gov of their SF-424 and SF-LLL submissions. Register the Entity Administrator (the person who manages who can access JustGrants on behalf of the applicant), the Application Submitter, and Authorized Representative for the applicant with JustGrants as early as possible and (recommended) not later than 48-72 hours before the JustGrants deadline. Once registered in JustGrants, the Application Submitter will receive a link in an email to complete the rest of the application in JustGrants. Find additional information on JustGrants Application Submission in the Application Resource Guide.

Standard Applicant Information

The "Standard Applicant Information" section of the JustGrants application is pre-populated with the SF-424 data submitted in Grants.gov. The applicant will need to review the Standard Applicant Information in JustGrants and make edits as needed. Within this section, the applicant will need to add ZIP codes for areas affected by the project; confirm their Authorized Representative; and verify and confirm the organization's unique entity identifier, legal name, and address.

Proposal Abstract

A Proposal Abstract (no more than 400 words) summarizing the proposed project—including its purpose, primary activities, expected outcomes, the service area, intended beneficiaries, and subrecipients (if known)—must be completed in the JustGrants web-based form. This abstract should be in paragraph form without bullets or tables, written in the third person, and exclude personally identifiable information). Abstracts will be made publicly available on the OJP and USASpending.gov websites if the project is awarded. Examples of brief Proposal Abstracts are included below.

JAG Abstract Examples:

> The city of [insert] will use JAG funds for overtime for increased patrols to bolster the security of at-risk nonprofit organizations such as synagogues, churches, mosques, and other places of worship.
>
> The county of [insert] will use JAG funds to hire credible messengers as part of a community-based violence intervention initiative.

Disparate JAG Abstract Example:

> The disparate jurisdictions of [insert] and [insert] will use JAG funds for technology improvements and equipment. Specifically, the county of [insert] will use JAG funds to replace its records management system to transition to NIBRS, and the city of [insert] will use JAG funds to purchase body worn cameras to promote public trust, accountability, and transparency.

Data Requested With Application

The following application elements should be submitted in the web-based forms in JustGrants.

Financial Management and System of Internal Controls Questionnaire (including Applicant Disclosure of High-Risk Status)

The Financial Management and System of Internal Controls Questionnaire helps OJP assess the financial management and internal control systems, and the associated potential risks of an applicant as part of the pre-award risk assessment process. Every OJP applicant (other than an individual applying in their personal capacity, not representing an applicant organization) is required to complete the web-based Questionnaire form in JustGrants. See the Application Resource Guide: Financial Management and System of Internal Controls Questionnaire (including Applicant Disclosure of High Risk Status) for additional guidance on how to complete the questionnaire.

Proposal Narrative

The Proposal Narrative should be submitted as an attachment in JustGrants. The attached document should be double-spaced, using a standard 12-point size font; have no less than 1-inch margins; and should not exceed 10 numbered pages.

Category 1—Eligible Allocation Amounts of Less than $25,000

The proposal narrative for Category 1 applications must include a description of the project(s), including subawards, if applicable, to be funded with JAG funds over the 2-year grant period.

Category 2—Eligible Allocation Amounts of $25,000 or More

The proposal narrative for Category 2 applications should include:

a. Description of the Issue

Identify the unit of local government's strategy/funding priorities for the FY 2024 JAG funds, the subaward process (if applicable, including disparates) and timeline, any progress or challenges, and a description of the programs to be funded over the 4-year grant period.

b. Project Design and Implementation

Describe the unit of local government's process, if any, for engaging stakeholders from across the justice continuum and how that input informs priorities. This should include a description of how local communities are engaged in the planning process, how state and local planning efforts are coordinated, and the challenges faced in coordination. The applicant should identify the stakeholders representing each program area who are participating in the strategic planning process, the gaps in the state's needed resources for criminal justice purposes, plans to improve the administration of the criminal justice system, and how JAG funds will be coordinated with state and related justice funds.

c. Capabilities and Competencies

Describe any additional strategic planning/coordination efforts in which the units of local government participate with other criminal justice entities within the local jurisdiction and/or state. Please provide an overview of any evidence-informed programs that have been implemented successfully and how those programs might inform implementation of strategic plan priorities.

d. Plan for Collecting the Data Required for This Solicitation's Performance Measures

The application should demonstrate the applicant's understanding of the performance data reporting requirements for this grant program and detail how the applicant will gather the required data should it receive funding.

Note: An applicant is **not** required to submit performance data with the application. Rather, performance measure information is included to provide notice that award recipients will be required to submit performance data as part of each award's reporting requirements.

OJP will require each award recipient to submit regular performance data that show the completed work's results. The performance data directly relate to the solicitation goals and objectives identified in the "Goals and Objectives" section. Applicants can visit OJP's performance measurement page at www.ojp.gov/performance for more information on performance measurement activities at OJP.

A list of performance measure questions for this program can be found at https://bjapmt.ojp.gov/help/JAGDocs.html. NOTE: BJA is in the process of reviewing and revising these performance measure questions. Any changes resulting from this review will be communicated to award recipients.

BJA will require award recipients to submit quarterly performance measure data in BJA's PMT located at https://bjapmt.ojp.gov and separately submit a semiannual, performance report in JustGrants. BJA will provide further guidance on the post-award submission process, if the applicant is selected for award.

Note on Project Evaluations

An applicant that proposes to use award funds through this solicitation to conduct project evaluations must follow the guidance in the "Note on Project Evaluations" section in the OJP Grant Application Resource Guide.

Budget and Associated Documentation

Funding Restrictions

All recipients and subrecipients (including any for-profit organization) must forgo any profit or management fee.

Budget Worksheet and Budget Narrative (Attachment)

The applicant will complete the budget worksheet attachment and submit it by uploading it as an attachment in JustGrants. See the OJP Grant Application Resource Guide for additional information.

The budget narrative and budget worksheet (attachment) are critical elements, and applicants will be unable to successfully submit an application in JustGrants unless an attachment is uploaded in this section. If an applicant does not have a budget to submit at the time of application, an attachment must be uploaded noting as such, and BJA will add the appropriate special condition withholding funds for budget documentation. Please note that the budget narrative should include a full description of all costs, including administrative costs (if applicable).

For additional information about how to prepare a budget for federal funding, see the "Application Resource Guide" section on Budget Preparation and Submission Information and the technical steps to complete the budget form in JustGrants in the Complete the Application in JustGrants: Budget training.

Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs

OJP strongly encourages every applicant that proposes to use award funds for any conference-, meeting-, or training-related activity (or similar event) to review carefully—before submitting an application—the Application Resource Guide for information on prior approval, planning, and reporting of conference/meeting/training costs.

Costs Associated With Language Assistance (if applicable)

If an applicant proposes a program or activity that would deliver services or benefits to individuals, the costs of taking reasonable steps to provide meaningful access to those services or benefits for individuals with limited English proficiency may be allowable. See the Application Resource Guide for information on costs associated with language assistance.

Unmanned Aircraft Systems

The use of BJA grant funds for unmanned aircraft systems (UAS), including unmanned aircraft vehicles (UAV), and all accompanying accessories to support UAS or UAV, is unallowable.

Budget/Financial Attachments

Pre-Agreement (Pre-Award) Costs (if applicable)

Pre-agreement costs are defined as costs requiring approval incurred by the applicant prior to the start date of the period of performance of the federal award. OJP does not typically approve pre-agreement costs. If a successful applicant, in anticipation of the Federal award, but before the start date of the period of performance, incurs costs which are necessary for efficient and timely performance of the funded project, those costs may not be charged to the award. See the "Costs Requiring Prior Approval" section in the DOJ Grants Financial Guide Post-Award Requirements for more information.

Indirect Cost Rate Agreement (if applicable)

Indirect costs are costs of an organization that are not readily assignable to a particular project but are necessary to the operation of the organization and the performance of the project. Examples of costs usually treated as indirect include those incurred for facility operation and maintenance, depreciation, and administrative salaries. The requirements for the development and submission of indirect cost proposals and cost allocation plans are listed in Appendices III–VII of 2 C.F.R. Part 200. A non-federal applicant should follow the guidelines applicable to its type of organization. If applicable, an applicant with a current federally approved indirect cost rate agreement will upload it as an attachment in JustGrants. See the DOJ Financial Guide for additional information on Indirect Cost Rate Agreement.

This rule does not eliminate or alter the JAG-specific restriction in federal law that states charges for administrative costs may not exceed 10 percent of the award amount, regardless of the approved indirect cost rate.

Consultant Rate (if applicable)

Costs for consultant services require prior approval from OJP. If the proposed project expects to fund consultant services, compensation for individual consultant services is to be reasonable

and consistent with that paid for similar services in the marketplace. See the DOJ Grants Financial Guide for information on the consultant rates, which require prior approval from OJP.

Limitation on Use of Award Funds for Employee Compensation for Awards Over $250,000; Waiver (if applicable)

This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the "Limitation on Use of Award Funds for Employee Compensation; Waiver" provision in the "Financial Information" section of the OJP Grant Application Resource Guide.

Disclosure of Process Related to Executive Compensation (if applicable)

This notice of funding opportunity expressly modifies the Application Resource Guide by not incorporating its "Disclosure of Process Related to Executive Compensation" provisions. Applicants to this funding opportunity are not required to provide this disclosure.

Additional Application Components

The applicant will attach the additional requested documentation in JustGrants.

Memorandum of Understanding (MOUs) and Other Supportive Documents (if applicable)

For disparate jurisdictions, an MOU that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by the authorized representative for each participating jurisdiction. See the Allocation Determination and Units of Local Government Requirements Regarding Use of JAG Funds section and the JAG FAQs for more information. A sample MOU is also available.

Research and Evaluation Independence and Integrity Statement (if applicable)

If an application proposes research (including research and development) and/or evaluation, the applicant must demonstrate research/evaluation independence and integrity, including appropriate safeguards, before it may receive award funds. The applicant will upload documentation of its research and evaluation independence and integrity as an attachment in JustGrants. For additional information, see the Application Resource Guide.

Certifications and Assurances by the Chief Executive of the Applicant Government

Body Armor Mandatory Wear Policy Certification (If applicable)

Body-worn Camera Policies Certification (If applicable)

ERPO Certification (if applicable)

Disclosures and Assurances

The applicant will address the following disclosures and assurances.

Disclosure of Lobbying Activities

The SF-LLL attachment that was completed and submitted in Grants.gov is attached to this section.

Applicant Disclosure of Duplication in Cost Items

To ensure funding coordination across grant making agencies, and to avoid unnecessary or inappropriate duplication among grant awards, the applicant will disclose if it has any pending applications for federal funding, including pending applications for subawards of federal funds. Complete the JustGrants web-based Applicant Disclosure of Duplication in Cost Items form. See the Application Resource Guide for additional information.

DOJ Certified Standard Assurances

Review and accept the DOJ Certified Standard Assurances in JustGrants. See the Application Resource Guide for additional information.

DOJ Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements; Law Enforcement and Community Policing

Review and accept in JustGrants the DOJ Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements; Law Enforcement and Community Policing. See the Application Resource Guide for additional information.

Applicant Disclosure and Justification—DOJ High-Risk Grantees

If applicable, submit the DOJ High-Risk Disclosure and Justification as an attachment in JustGrants. A DOJ High-Risk Grantee is an award recipient that has received a DOJ High-Risk designation based on a documented history of unsatisfactory performance; financial instability; management system or other internal control deficiencies; noncompliance with award terms and conditions on prior awards or is otherwise not responsible. See the Application Resource Guide for additional information.

Application Review Information

Review Process

OJP reviews the application to make sure that the information presented is reasonable, understandable, measurable, achievable, and consistent with the solicitation. See the OJP Grant Application Resource Guide for information on the application review process for this solicitation.

Pursuant to the Part 200 Uniform Requirements, before award decisions are made, OJP also reviews information related to the degree of risk posed by the applicant entity. Among other things to help assess whether an applicant with one or more prior federal awards has a satisfactory record with respect to performance, integrity, and business ethics, OJP checks whether the applicant entity is listed in SAM as excluded from receiving a federal award.

In addition, if OJP anticipates that an award will exceed $250,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the non-public segment of the integrity and performance system accessible through SAM.gov.

Important note on Responsibility/Qualification Data (formerly FAPIIS): An applicant, at its option, may review and comment on any information about itself that currently appears in SAM.gov and was entered by a federal awarding agency. OJP will consider such comments by the applicant, in addition to the other information in SAM.gov, in its assessment of the risk posed by the applicant.

Absent explicit statutory authorization or written delegation of authority to the contrary, all final award decisions will be made by the Assistant Attorney General, who may consider not only BJA recommendations but also other factors as indicated in this section.

Federal Award Administration Information

Federal Award Notices

Generally, award notifications are made by the end of the current Federal fiscal year, September 30. See the Application Resource Guide for information on award notifications and instructions.

Evidence-Based Programs or Practices

OJP strongly encourages the use of data and evidence in policymaking and program development for criminal justice, juvenile justice, and crime victim services. For additional information and resources on evidence-based programs or practices (programs or practices that have been evaluated as effective), see the Application Resource Guide.

Information Regarding Potential Evaluation of Programs and Activities

OJP may conduct or support an evaluation of the projects and activities funded under this solicitation. For additional information on what should be included in the application, see the Application Resource Guide section entitled "Information Regarding Potential Evaluation of Programs and Activities."

Administrative, National Policy, and Other Legal Requirements

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award conditions and all applicable requirements of federal statutes and regulations, including the applicable requirements referred to in the assurances and certifications executed in connection with award acceptance. For additional information on these legal requirements, see the "Administrative, National Policy, and Other Legal Requirements" section in the Application Resource Guide.

Civil Rights Compliance

If a successful applicant accepts funding from OJP—as a recipient of OJP funding—that award recipient must comply with certain federal civil rights laws that prohibit it from discriminating on the basis of race, color, national origin, sex, religion, or disability in how the recipient delivers its program's services or benefits and in its employment practices. The civil rights laws that may be applicable to the award include Title VI of the Civil Rights Act of 1964 (Title VI), the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), and Section 504 of the Rehabilitation Act of 1973. These and other federal civil rights laws are discussed in greater detail here: "Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements – FY 2024 Awards under the "Civil Rights Requirements" section, and additional resources are available from the OJP Office for Civil Rights.

Part of complying with civil rights laws that prohibit national origin discrimination includes recipients taking reasonable steps to ensure that people who are limited in their English proficiency (LEP) because of their national origin have meaningful access to a recipient's program and activity. An LEP person is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. To help recipients meet this obligation to serve LEP persons, DOJ has published a number of resources, including a language access assessment and planning tool, which are available at https://www.lep.gov/language-access-planning. Additional resources are available at https://www.ojp.gov/program/civil-rights-office/limited-english-proficient-lep. If the award recipient proposes a program or activity that would deliver services or benefits to LEP

individuals, the recipient may use grant funds to support the costs of taking reasonable steps (e.g., interpretation or translation services) to provide meaningful access. Similarly, recipients are responsible for ensuring that their programs and activities are readily accessible to qualified individuals with disabilities. Applicants for OJP funding must allocate grant funds or explain how other available resources will be used to ensure meaningful and full access to their programs. For example, grant funds can be used to support American Sign Language (ASL) interpreter services for deaf or hard of hearing individuals or the purchase of adaptive equipment for individuals with mobility or cognitive disabilities. For resources, see https://www.ada.gov/ or contact OJP.

Financial Management and System of Internal Controls

Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities) must, as described in the Part 200 Uniform Requirements as set out at 2 C.F.R. 200.303, comply with standards for financial and program management. See the Application Resource Guide for additional information.

Information Technology Security Clauses

An application in response to this solicitation may require inclusion of information related to information technology security. See the Application Resource Guide for more information.

General Information About Post-Federal Award Reporting Requirements

In addition to the deliverables described in the "Program Description" section, all award recipients under this solicitation will be required to submit certain reports and data.

Required reports—Award recipients typically must submit quarterly financial reports, quarterly performance measurement reports, semiannual performance reports, final financial and performance reports, and (if applicable) an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions. Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

Specific reporting requirements by category are listed below:

Category 1—Eligible Allocation Amounts of Less Than $25,000

Recipients must submit:

- Quarterly Federal Financial Reports (and one final Federal Financial Report after all funds have been obligated and expended) through OJP's JustGrants system.
- Quarterly Performance Measurement Tool reports and a final Performance Measurement Tool report through BJA's PMT. Please note that as soon as all project activity has concluded, that report may be marked as final.
- An annual performance report and final progress report through OJP's JustGrants. If all project activity has concluded at the time the first annual performance report is submitted, that report may be marked as final.
- If applicable, an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions.

Category 2—Eligible Allocation Amounts of $25,000 or More

Recipients must submit the following:

- Quarterly Federal Financial Reports (and one final Federal Financial Report after all funds have been obligated and expended) through OJP's JustGrants system.
- Quarterly Performance Measurement Tool reports and a final Performance Measurement Tool report (at any time once all project activity has concluded) through BJA's PMT.
- Semiannual performance reports and a final performance report (at any time once all project activity has concluded) through OJP's JustGrants.
- If applicable, an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions.

See the Application Resource Guide for additional information on specific post-award reporting requirements, including performance measure data.

Federal Awarding Agency Contact(s)

For OJP contact(s), contact information for Grants.gov, and contact information for JustGrants, see the solicitation Synopsis.

Other Information

Freedom of Information and Privacy Act (5 U.S.C. §§ 552 and 552a)

See the Application Resource Guide for information on the Freedom of Information and Privacy Act (5 U.S.C. §§ 552 and 552a).

Provide Feedback to OJP

See the Application Resource Guide for information on how to provide feedback to OJP.

Performance Measures

A list of performance measures can be found at: https://bjapmt.ojp.gov/help/JAGDocs.html

Application Checklist

BJA FY24 Edward Byrne Memorial Justice Assistance Grant Formula Program—Local Solicitation

This application checklist has been created as an aid in developing an application. For more information, reference The OJP Application Submission Steps in the OJP Grant Application Resource Guide and the DOJ Application Submission Checklist.

Pre-Application

Before Registering in Grants.gov

- Confirm your entity's registration in the System for Award Management (SAM.gov) is active through the solicitation period; submit a new or renewal registration in SAM.gov if needed (see Application Resource Guide).

Register in Grants.gov

- Acquire an Authorized Organization Representative (AOR) and a Grants.gov username and password (see Application Resource Guide).
- Acquire AOR confirmation from the E-Business Point of Contact (E-Biz POC) (see Application Resource Guide).

Find the Funding Opportunity

- Search for the funding opportunity in Grants.gov using the opportunity number, assistance listing number, or keyword(s).
- Select the correct Competition ID.
- Access the funding opportunity and application package (see Step 7 in the Application Resource Guide).
- Sign up for Grants.gov email notifications (optional) (see Application Resource Guide).
- Read Important Notice: Applying for Grants in Grants.gov (about browser compatibility and special characters in file names).
- Read OJP policy and guidance on conference approval, planning, and reporting available at https://www.ojp.gov/funding/financialguidedoj/iii-postaward-requirements#6g3y8 (see Application Resource Guide).

Review the Overview of Post-Award Legal Requirements

- Review the "Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements – FY 2024 Awards" in the OJP Funding Resource Center.

Review the Scope Requirement

- The federal amount requested is within the allowable limit. See https://bja.ojp.gov/program/jag/allocations.

Review Eligibility Requirement

- Review "Eligibility" in the Synopsis section and "Eligibility Information" section in the solicitation.

Application Step 1

After registering with SAM.gov, submit the SF-424 and SF-LLL in Grants.gov.

- In Section 8F of the SF-424, include the name and contact information of the individual **who will complete the application in JustGrants and the SF-LLL in Grants.gov.**

- Submit Intergovernmental Review (if applicable).

Within 48 hours after the SF-424 and SF-LLL submission in Grants.gov, receive four (4) Grants.gov email notifications:

- A submission receipt.
- A validation receipt.
- A grantor agency retrieval receipt.
- An agency tracking number assignment.

If no Grants.gov receipt and validation email is received, or if error notifications are received:

- Contact BJA or Grants.gov Customer Support Hotline at 800-518-4726, 606-545-5035, Grants.gov customer support, or support@grants.gov regarding technical difficulties (see "Application Resource Guide" section on Experiencing Unforeseen Technical Issues).

Within 24 hours after receipt of confirmation emails from Grants.gov, the individual in Section 8F of the SF-424 will receive an email from JustGrants with login instructions.

- Proceed to Application Step 2 and complete application in JustGrants.

Application Step 2
Submit the following information in JustGrants:

Application Components
- Entity and User Verification (First Time Applicant)
- Standard Applicant information (SF-424 information from Grants.gov)
- Proposal Abstract
- Data Requested with Application
- Proposal Narrative

Budget and Associated Documentation
- Budget Worksheet and Narrative (attachment)
- Financial Management and System of Internal Controls Questionnaire (see Application Resource Guide)
- Indirect Cost Rate Agreement (if applicable) (see Application Resource Guide)

Additional Application Components
- Research and Evaluation Independence and Integrity (see Application Resource Guide)
- FY24 JAG—Certifications and Assurances by the Chief Executive of the Applicant Government
- Memorandum of Understanding (if applicable)
- Body Armor Certification (if applicable)
- Body-Worn Camera Certification (if applicable)
- ERPO Certification (if applicable)

Disclosures and Assurances
- Disclosure of Lobbying Activities (SF-LLL) (see Application Resource Guide)
- Applicant Disclosure of Duplication in Cost Items (see Application Resource Guide)
- DOJ Certified Standard Assurances (see Application Resource Guide)

- DOJ Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements; Law Enforcement and Community Policing (see Application Resource Guide)
- Applicant Disclosure and Justification—DOJ High-Risk Grantees (if applicable) (see Application Resource Guide)

Review, Certify, and Submit Application in JustGrants

- Any validation errors will immediately display on screen after submission.
- Correct validation errors, if necessary, and then return to the "Certify and Submit" screen to submit the application. Access the Application Submission Validation Errors Quick Reference Guide for step-by-step instructions to resolve errors prior to submission.
- Once the application is submitted and validated, a confirmation message will appear at the top of the page. Users will also receive a notification in the "bell" alerts confirming submission.

If no JustGrants application submission confirmation email or validation is received, or if error notification is received—

- Contact the JustGrants Service Desk at 833-872-5175 or JustGrants.Support@usdoj.gov regarding technical difficulties. See the Application Resource Guide for additional information.

Standard Solicitation Resources

Application Resource Guide provides guidance to assist OJP grant applicants in preparing and submitting applications for OJP funding.

DOJ Grants Financial Guide serves as the primary reference manual to assist award recipients in fulfilling their fiduciary responsibility to safeguard grant funds and to ensure funds are used for the purposes for which they were awarded. It compiles a variety of laws, rules and regulations that affect the financial and administrative management of DOJ awards. This guide serves as a starting point for all award recipients and subrecipients of DOJ grants and cooperative agreements in ensuring the effective day-to-day management of awards.

JustGrants Resources Website is an entryway into information about JustGrants and the grants management system itself. Through this portal both award recipients and applicants can access training resource and user support options, find frequently asked questions, and sign up for the JustGrants Update e-newsletter.

JustGrants Application Submission Training page offers helpful information and resources on the application process. This training page includes e-learning videos, reference guides, checklists, and other resources to help applicants complete an application.

Weekly Training Webinars are advertised here and provide opportunities for users to receive topic-specific training, direct technical assistance, and support on JustGrants system functionality.

2024 Washington Local JAG Allocations

Listed below are all jurisdictions in the state that are eligible for FY 2024 JAG funding, as determined by the JAG formula. For additional details regarding the JAG formula and award calculation process, with examples, please refer to the JAG Technical report here: https://bjs.ojp.gov/library/publications/justice-assistance-grant-jag-program-2022 and current JAG Frequently Asked Questions here: https://bja.ojp.gov/program/jag/frequently-asked-questions.

Finding your jurisdiction:
(1) Disparate jurisdictions are listed in shaded groups below, in alphabetic order by county.
(2) Direct allocations are listed alphabetically below the shaded, disparate groupings.
(3) Counties that have an asterisk (*) under the "Direct Allocation" column did not submit the level of violent crime data to qualify for a direct award from BJA, but are in the disparate grouping indicated by the shaded area. The JAG legislation requires these counties to remain a partner with the local jurisdictions receiving funds and must be a signatory on the required Memorandum of Understanding (MOU). A sample MOU is provided online at: https://www.bja.gov/Funding/JAGMOU.pdf. Disparate jurisdictions do not need to abide by the listed individual allocations, which are provided for information only. Jurisdictions in a funding disparity are responsible for determining individual amounts within the Eligible Joint Allocation and for documenting individual allocations in the MOU.

State	Jurisdiction Name	Government Type	Direct Allocation	Joint Allocation
WA	BENTON COUNTY	County	*	
WA	KENNEWICK CITY	Municipal	$25,867	
WA	RICHLAND CITY	Municipal	$15,437	$41,304
WA	CLALLAM COUNTY	County	*	
WA	PORT ANGELES CITY	Municipal	$10,900	$10,900
WA	CLARK COUNTY	County	$29,630	
WA	VANCOUVER CITY	Municipal	$91,628	$121,258
WA	COWLITZ COUNTY	County	*	
WA	LONGVIEW CITY	Municipal	$10,098	$10,098
WA	FRANKLIN COUNTY	County	*	
WA	PASCO CITY	Municipal	$19,200	$19,200
WA	KING COUNTY	County	$52,398	
WA	AUBURN CITY	Municipal	$31,954	
WA	BELLEVUE CITY	Municipal	$16,876	
WA	BURIEN CITY	Municipal	$20,888	
WA	FEDERAL WAY CITY	Municipal	$39,977	
WA	KENT CITY	Municipal	$46,146	
WA	RENTON CITY	Municipal	$30,128	
WA	SEATAC CITY	Municipal	$13,999	
WA	SEATTLE CITY	Municipal	$473,384	
WA	SHORELINE CITY	Municipal	$10,817	
WA	TUKWILA CITY	Municipal	$13,445	$750,012
WA	PIERCE COUNTY	County	$112,101	
WA	TACOMA CITY	Municipal	$227,134	$339,235
WA	SPOKANE COUNTY	County	$17,512	
WA	SPOKANE CITY	Municipal	$123,997	
WA	SPOKANE VALLEY CITY	Municipal	$28,440	$169,949
WA	WHATCOM COUNTY	County	$11,509	
WA	BELLINGHAM CITY	Municipal	$28,661	$40,170
WA	YAKIMA COUNTY	County	$12,809	

WA	YAKIMA CITY	Municipal	$50,434	$63,243
WA	BREMERTON CITY	Municipal	$14,524	
WA	EVERETT CITY	Municipal	$34,720	
WA	FIFE CITY	Municipal	$14,248	
WA	KITSAP COUNTY	County	$39,423	
WA	LAKEWOOD CITY	Municipal	$39,064	
WA	LYNNWOOD CITY	Municipal	$10,209	
WA	MARYSVILLE CITY	Municipal	$11,426	
WA	OLYMPIA CITY	Municipal	$22,602	
WA	PUYALLUP CITY	Municipal	$11,426	
WA	SNOHOMISH COUNTY	County	$41,471	
WA	THURSTON COUNTY	County	$19,809	
	Local total		$1,824,291	

Purposes for Which Funds Awarded Under the Edward Byrne Memorial Justice Assistance Grants (JAG) Program May Be Used

Subject to certain specific prohibitions,[1] 34 U.S.C. § 10152(a)(1) provides that JAG award funds are to be—

> use[d] to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice,[2] including for any one or more of the following programs:
>
> (A) Law enforcement programs.
> (B) Prosecution and court programs.
> (C) Prevention and education programs.
> (D) Corrections and community corrections programs.
> (E) Drug treatment and enforcement programs.
> (F) Planning, evaluation, and technology improvement programs.
> (G) Crime victim and witness programs (other than compensation).
> (H) Mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.
> (I) Implementation of State crisis intervention court proceedings and related programs or initiatives, including but not limited to-
> (i) mental health courts;
> (ii) drug courts;
> (iii) veterans courts; and
> (iv) extreme risk protection order programs, which must include, at a minimum-
> (I) pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive or procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). Such programs must include, at the appropriate phase to prevent any violation of constitutional rights, at minimum, notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses;
> (II) the right to be represented by counsel at no expense to the government;
> (III) pre-deprivation and post-deprivation heightened evidentiary standards and proof which mean not less than the protections afforded to a similarly situated litigant in Federal court or promulgated by the State's evidentiary body, and sufficient to ensure the full protections of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive and procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). The heightened

evidentiary standards and proof under such programs must, at all appropriate phases to prevent any violation of any constitutional right, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation; and
(IV) penalties for abuse of the program.

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1 *See, e.g.*, 34 U.S.C. § 10152(d):

Notwithstanding any other provision of [the Omnibus Crime Control and Safe Streets Act of 1968], no funds provided under [34 U.S.C. ch. 101, subch. V, pt. A] may be used, directly or indirectly, to provide any of the following matters:

(1) Any security enhancements or any equipment to any nongovernmental entity that is not engaged in criminal justice or public safety.

(2) Unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of such funds to provide such matters essential to the maintenance of public safety and good order—

(A) vehicles (excluding police cruisers), vessels (excluding police boats), or aircraft (excluding police helicopters);

(B) luxury items;

(C) real estate;

(D) construction projects (other than penal or correctional institutions); or

(E) any similar matters.

2 *See* 34 U.S.C. § 10251(a)(1), pursuant to which, as used in 34 U.S.C. ch. 101—

"criminal justice" means activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency[.]

JAG award funds *also* "may be used for any purpose for which a grant was authorized to be used under either or both of the programs specified in section 10151(b) of [title 34, U.S. Code],[3] as those programs were in effect immediately before January 5, 2006," pursuant to 34 U.S.C. § 10152(a)(2).

As "in effect immediately before January 5, 2006," **42 U.S.C. § 3751** authorized awards under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs—

> **(a)** [for] the purpose of . . . carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on a nationwide and multilevel drug control strategy by developing programs and projects to assist multijurisdictional and multi-State organizations in the drug control problem and to support national drug control priorities[;]
>
> **(b)** . . . for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. § 801 *et seq.*) and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders[and] provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—
>
> (1) demand-reduction education programs in which law enforcement officers participate;
>
> (2) multijurisdictional task force programs that integrate Federal, State, and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination, intelligence, and facilitating multijurisdictional investigations;
>
> (3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations and to remove any hazardous substance or pollutant or contaminant associated with the illegal manufacture of amphetamine or methamphetamine;
>
> (4) providing community and neighborhood programs that assist citizens in preventing and controlling crime, including special programs that address the problems of crimes committed against the elderly and special programs for rural jurisdictions;
>
> (5) disrupting illicit commerce in stolen goods and property;
>
> (6) improving the investigation and prosecution of white-collar crime, organized crime, public corruption crimes, and fraud against the government with priority attention to cases involving drug-related official corruption;

---

3 The two "programs specified in section 10151(b)" of title 34, U.S. Code, are "the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, [and] the Local Government Law Enforcement Block Grants program." 34 U.S.C. § 10251(b)(1).

(7)(A) improving the operational effectiveness of law enforcement through the use of crime analysis techniques, street sales enforcement, schoolyard violator programs, gang-related and low-income housing drug control programs; [and]

(B) developing and implementing antiterrorism plans for deep draft ports, international airports, and other important facilities;

(8) career criminal prosecution programs including the development of proposed model drug control legislation;

(9) financial investigative programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the development of proposed model legislation, financial investigative training, and financial information sharing systems;

(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;

(11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive supervision programs, and long-range corrections and sentencing strategies;

(12) providing prison industry projects designed to place inmates in a realistic working and training environment which will enable them to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

(13) providing programs which identify and meet the treatment needs of adult and juvenile drug-dependent and alcohol-dependent offenders;

(14) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

(15)(A) developing programs to improve drug control technology, such as pretrial drug testing programs, programs which provide for the identification, assessment, referral to treatment, case management and monitoring of drug dependent offenders, enhancement of State and local forensic laboratories[;] and

(B) [developing programs to improve criminal justice information systems (including automated fingerprint identification systems) to assist law enforcement, prosecution, courts, and corrections organizations];

(16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug offenses and other serious crimes;

(17) addressing the problems of drug trafficking and the illegal manufacture of controlled substances in public housing;

(18) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly;

(19) drug control evaluation programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities;

(20) providing alternatives to prevent detention, jail, and prison for persons who pose no danger to the community;

(21) programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street drug sales;

(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles;

(23) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles in courts with jurisdiction over adults for the crimes of—

(A) murder in the first degree;

(B) murder in the second degree;

(C) attempted murder;

(D) armed robbery when armed with a firearm;

(E) aggravated battery or assault when armed with a firearm;

(F) criminal sexual penetration when armed with a firearm; and

(G) drive-by shootings as described section 36 of title 18, United States Code;

(24) law enforcement and prevention programs relating to gangs, or to youth who are involved or at risk of involvement in gangs;

(25) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as "DNA") for identification purposes;

(26) . . . develop[ing] and implement[ing] antiterrorism training programs and to procure equipment for use by local law enforcement authorities;

(27) enforcing child abuse and neglect laws, including laws protecting against child sexual abuse, and promoting programs designed to prevent child abuse and neglect;

(28) establishing or supporting cooperative programs between law enforcement and media organizations, to collect, record, retain, and disseminate information useful in the identification and apprehension of suspected criminal offenders[; and]

(29) improving the quality, timeliness, and credibility of forensic science services for criminal justice purposes[; and]

(c) [for e]ach program funded under this section[,] an evaluation component, developed pursuant to guidelines established by the National Institute of Justice, in consultation with the Bureau of Justice Assistance. . . .

Additionally, further to **42 U.S.C. § 3753(a)**, *as "in effect immediately before January 5, 2006,"* awards under the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs could be used to defray the costs of developing, implementing, and carrying out the following items, which were application requirements under those programs immediately before that date:

> **(1)** A statewide strategy for drug and violent crime control programs which improve the functioning of the criminal justice system, with an emphasis on drug trafficking, violent crime, and serious offenders[, which] strategy shall . . . contain—
>
> (A) a definition and analysis of the drug and violent crime problem in the State, and an analysis of the problems in each of the counties and municipalities with major drug and violent crime problems;
>
> (B) an assessment of the criminal justice resources being devoted to crime and drug control programs at the time of the application;
>
> (C) coordination requirements;
>
> (D) resource needs;
>
> (E) the establishment of statewide priorities for crime and drug control activities and programs;
>
> (F) an analysis of the relationship of the proposed State efforts to the national drug control strategy; and
>
> (G) a plan for coordinating the programs to be funded under this part [42 U.S.C. §§ 3750 *et seq.*] with other federally funded programs, including State and local drug abuse education, treatment, and prevention programs[;]
>
> * * *
>
> **(6)** following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this section[, to] be submitted to the Bureau[;]
>
> **(7)** . . . provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds reviewed under this section[;]
>
> **(8)** . . . maint[enance of] such data and information and submit[ting] such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this subpart [42 U.S.C. §§ 3751 *et seq.*;]

(9) . . . meet[ing] all the requirements of this section, . . . appropriate[ly] coordinat[ing] with affected agencies, and . . . comply[ing] with all provisions of this subpart [42 U.S.C. §§ 3751 *et seq.*] and all other applicable Federal laws[;]

(10) . . . initiatives to reduce, through the enactment of innovative penalties or increasing law enforcement efforts, the demand for controlled substances by holding accountable those who unlawfully possess or use such substances[;]

(11) . . . a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, notice of conviction of aliens who have been convicted of violating the criminal laws of the State and under which the State will provide the Service with the certified record of such a conviction within 30 days of the date of a request by the Service for such record[;]

(12) [i]f any part of funds received . . . is to be used to develop or improve a DNA analysis capability in a forensic laboratory—

(A) . . . satisfy[ing] or exceed[ing] then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 210303 of the DNA Identification Act of 1994 [42 U.S.C. § 14131];

(B) [providing that] DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

(i) to criminal justice agencies for law enforcement identification purposes;

(ii) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;

(iii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or

(iv) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

(C) [providing that] such laboratory, and each analyst performing DNA analyses at such laboratory, will undergo semiannual external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 210303 of the DNA Identification Act of 1994 [42 U.S.C. § 14131;]

(13) [i]f any part of the amount received . . . is to be used to improve the quality, timeliness, and credibility of forensic science services for criminal justice purposes, [providing] that, as of the date of enactment

> of this paragraph [enacted Dec. 21, 2000], the State, or unit of local government within the State, has an established—
>
> (A) forensic science laboratory or forensic science laboratory system, that—
>
> (i) employs 1 or more full-time scientists—
>
> (I) whose principal duties are the examination of physical evidence for law enforcement agencies in criminal matters; and
>
> (II) who provide testimony with respect to such physical evidence to the criminal justice system;
>
> (ii) employs generally accepted practices and procedures, as established by appropriate accrediting organizations; and
>
> (iii) is accredited by the Laboratory Accreditation Board of the American Society of Crime Laboratory Directors, the National Association of Medical Examiners, or any other nonprofit, professional organization that may be recognized within the forensic science community as competent to award such accreditation, or will use a portion of the grant amount to prepare and apply for such accreditation by not later than 2 years after the date on which a grant is initially awarded under this paragraph; or
>
> (B) medical examiner's office (as defined by the National Association of Medical Examiners) that—
>
> (i) employs generally accepted practices and procedures, as established by appropriate accrediting organizations; and
>
> (ii) is accredited by the Laboratory Accreditation Board of the American Society of Crime Laboratory Directors or the National Association of Medical Examiners, or will use a portion of the grant amount to prepare and apply for such accreditation by not later than 2 years after the date on which a grant is initially awarded under this paragraph.

Finally, awards under Local Government Law Enforcement Block Grants program *"before January 5, 2006,"* were made "pursuant to **H.R. 728 as passed by the House of Representatives on February 14, 1995**," through an incorporation by reference in each annual Department of Justice appropriations act, which typically *limited* such awards to "the purposes

set forth in paragraphs (A), (B), (D), (F), and (I) of section 101(a)(2) of H.R. 728" and typically also *expanded* their purposes to include the following:

> establishing crime prevention programs involving cooperation between community residents and law enforcement personnel in order to control, detect, or investigate crime or the prosecution of criminals.

Pursuant to § 101(a)(2) of H.R. 728, as passed by the House of Representative on February 14, 1995, award amounts were to be—

> used . . . for reducing crime and improving public safety, including but not limited to, 1 or more of the following purposes:
>
> (A)(i) [h]iring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel[;]
>
> (ii) [p]aying overtime to presently-employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel[; and]
>
> (iii) [p]rocuring equipment, technology, and other material directly related to basic law-enforcement functions[;]
>
> (B) [e]nhancing security measures—
>
> (i) in and around schools; and
>
> (ii) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime[;]
>
> (C) [e]stablishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime[;]
>
> (D) [e]stablishing or supporting drug courts[;]
>
> (E) [e]stablishing early intervention and prevention programs for juveniles, in order to reduce or eliminate crime[;]
>
> (F) [e]nhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders[;]
>
> (G) [e]nhancing programs under subpart 1 of part E of [title I of] the Omnibus Crime Control and Safe Streets Act of 1968[;]
>
> (H) [e]stablishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement[; and]
>
> (I) [e]stablishing a multi-jurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of

local government, that works with Federal law enforcement officials to prevent and control crime.

Budget and Budget Narrative

Intended Purchases for the 2024 JAG Grant:	**Bellingham Police Department:**	**$28,661.00**
	Whatcom County Sheriff's Office:	**$11,509.00**
	Combined Total:	**$40,170.00**

Equipment Estimated Cost: **$15,000.00**

- Volcanic APB Bikes (4)
- Bike Helmets (4)
- Bike Shoes - (4)

The Bellingham Police Department is looking to rebuild the Civil Disturbance Unit (CDU)with the creation of a Bicycle Response Team as a multi-use unit within CDU. The City of Bellingham hosts several large events throughout the year, Ski to Sea and Northwest tune-up are two events that bring large contingents of people into our city. Having a team of mobile officers who are trained in crowd control would have a huge impact on these events by being able to respond more quickly to concerning areas.

Estimated Cost: **$15,000.00**

Equipment

- The WRAP Restraint System (6) Estimated Cost: **$13,661.00**

Joint applicant - City of Bellingham will be the financial agent.

Whatcom County Sheriff's Office

VESTS Estimated Cost: **$11,509.00**

E. Supplies

Ballistic resistant Vests		$11,509.00
Ballistic Plates		
Illumination Device		
	Total	$11,509.00

Total JAG project costs **$40,170.00**

303.9 WRAP RESTRAINT SYSTEM GUIDELINES

The Wrap Restraint System, manufactured by Safe Restraints, Inc., was designed as a temporary restraining device. Used properly, it can increase officer safety and reduce injuries and in-custody deaths. The Wrap immobilizes the body and restricts a subject's ability to kick or do harm to oneself or others. The Wrap minimizes the time required to secure a person safely, restrains the subject in an upright position, and has the subject prepared for transport or movement.

303.9.1 DEPLOYMENT AND USE

The Wrap Restraint System can be used prior to or after a violent or potentially violent/combative subject is controlled using approved departmental methods. Like any restraint device, do not assume The Wrap is escape-proof. Once applied, the subject should not be left unattended.

The Wrap should be considered for use under the following situations:

(a) To immobilize a violent/combative subject

(b) To limit violent/combative subjects from causing injury to themselves or others

(c) Whenever an officer anticipates possible violent/combative behavior, and the subject has demonstrated or verbalized to be violent/combative

(d) To prevent violent/combative subjects from causing property damage by kicking

(e) When conventional methods of restraint are not effective

(f) In transportation of violent/combative subjects

(g) To assist with cell extraction of violent/combative subjects

If necessary, the Wrap Restraint System may be used to restrain subjects after a chemical spray, extended range baton, or Taser is used.

If officers do not believe the entire Wrap Restraint System is necessary, the protective head gear may be used by itself under the following conditions:

(a) If the subject has or is exhibiting signs of potential head/face self-harm.

(b) If the subject has bitten someone and/or if officers believe the subject may bite someone.

(c) If the subject has headbutted someone and/or if officers believe the subject may headbutt someone.

Once the subject is properly restrained in The Wrap, they can be placed on their side or in a sitting position. This will increase oxygen recovery rate allowing for respiratory recovery. Two or more persons should be used when applying The Wrap for violent/combative subjects. Only qualified personnel who have received training in the use of The Wrap should use this restraining device. Refer to the training manual for application guidelines.

303.9.2 DEPLOYMENT CONSIDERATIONS

Movement of the subject can be accomplished in two ways depending on their cooperation. The subject can either be carried or allowed to stand and shuffle step to the destination.

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(a) To carry the subject, it is recommended that between 2 to 4 personnel can be used depending on the size and weight of the subject. Lift the subject by the arms and the ankles. A "log lift" carrying technique may be used when moving the subject. Proper lifting techniques should be followed to prevent unnecessary injury.

(b) As an option to lifting, the subject may be moved by means of a shuffle. If the subject has calmed down and is cooperative, the lower Wrap leg band can be loosened to allow some leg movement below the knees without compromising security or safety concerns. By loosening the tether to the shoulder harness, the subject can be brought to a standing position with the help of officers and then allowed to shuffle to or from a vehicle or holding cell. If this method is used, appropriate support must be given to the subject to prevent possible injury.

(c) Prior to vehicle transportation, re-check all belts to ensure that they are securely fastened. The use of a seat belt is recommended to limit movement and reduce the risk of injury to the subject.

(d) Whenever possible, one person should ride as an observer with the subject to ensure all straps remain tight and the subject has no medical problems. Re-checking the security of The Wrap and keeping the subject under constant observation should apply to any movement of the subject.

Precautions should be taken when The Wrap is in use. Such precautions include:

(a) The shoulder harness should never be tightened to the point that it interferes with the subject's ability to breathe

(b) The leg bands and shoulder harness must be checked frequently for tightness and re-tightened or loosened as necessary until The Wrap is removed

(c) The subject's breathing should be continually monitored while restrained

(d) Subject's restrained with The Wrap, should also be fitted with the protective headgear in order to prevent injury should they fall

(e) Protective head gear should be fitted and secured in such a way that it does not obstruct the subject's ability to breathe

(f) Restrained subjects should never be left unattended

(g) Restrained subjects should be placed in an upright sitting position or on their side as soon as possible to allow for respiratory recovery

(h) If the subject shows signs of medical distress, medical should be provided as soon as possible

(i) The Wrap is a temporary restraining device and is not escape-proof

(j) The Wrap is to be used by trained personnel only. Untrained officers may assist in maintaining control of the subject while the restraints are being applied.

303.9.3 CARE AND STORAGE

The Wrap should be inspected after each use for signs of wear or damage. If any damage is discovered, forward The Wrap to appropriate certified instructors for repair or replacement.

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If cleaning is necessary after use, use a mild soapy solution or disinfectant approved for use on vinyl and nylon materials. If blood is absorbed into any part of The Wrap, the part should be replaced. Thoroughly rinse all disinfectant from the unit prior to drying. After cleaning The Wrap, allow it to thoroughly air dry before being returned to its carrying bag.

It is important that The Wrap is immediately ready for use and prepared for storage in a way that prevents the loop fastening material on the bands from becoming dirty or entangled. This allows The Wrap to be quickly laid out next to the subject and applied without the confusion of having to untangle the bands. To properly prepare The Wrap for storage in the carrying bag:

(a) Lay The Wrap on a flat surface with the leg band side up and detach the shoulder harness. Extend each of the leg bands out flat

(b) Individually fold each of the leg bands back onto itself so that the fold of the band protrudes an inch or two from the edge of The Wrap body

(c) Be sure the retaining "D" ring on the body of The Wrap and harness is open and ready for use

(d) Keeping the bands inside, roll The Wrap tightly towards the buckle and secure with the ankle strap and place in carrying bag

(e) Fully extend the harness buckles and tether. Attach buckles to its counterpart and roll the harness up and place it in the carrying bag compartment

303.10 TRAINING FOR CONTROL DEVICES

The Administrative Services Sergeant shall ensure that all personnel who are authorized to carry a control device have been properly trained, have demonstrated satisfactory skill and proficiency, are certified to carry the specific control device and receive in-service training at least once every two years, and are retrained or re-certified as necessary..

- Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- All training and proficiency for control devices will be documented in the officer's training file.
- Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

303.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

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City Council Agenda Bill

24265

Bill Number

Subject: **Inter-Agency Agreements with Washington State Department of Ecology (DOE) to Sponsor Washington Conservation Corps (WCC) Members for Restoration and Conservation Work**

Summary Statement: These Inter-agency agreements allow the City of Bellingham to sponsor two WCC crews from 10/1/24 to 9/30/25 for a total cost to the City of $167,585. This crew is to be used by Parks predominantly, as Public Works has modified their approach to hire employees to complete this work.

Previous Council Action: **Approval of the 2023-2024 Budget and prior year WCC Inter-Agency Agreements**

Fiscal Impact: **$167,585**

Funding Source: **Greenways Fund, Water Fund and Stormwater Fund**

Attachments:
1. STAFF MEMO
2. AGREEMENT NO WCC-24094
3. 2024-2025 WCC CALENDAR
4. AGREEMENT NO WCC-24091

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Vote to Approve	Nicole Oliver, Parks & Recreation Director	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Nicole Oliver, Parks & Recreation Director

Council Action:

Reviewed By	Department	Date
Nicole C. Oliver	Parks & Recreation	09/24/2024
Joel F. Pfundt	Public Works	09/25/2024
James E. Erb	Legal	09/25/2024
Kimberley J. Lund	Executive	09/25/2024

City of Bellingham
210 Lottie Street
Bellingham, WA 98225

MEMORANDUM

TO: BELLINGHAM CITY COUNCIL

FROM: NICOLE OLIVER, PARKS & RECREATION DIRECTOR

CC: MAYOR KIM LUND

SUBJECT: INTER-AGENCY AGREEMENTS WITH WASHINGTON STATE DEPARTMENT OF ECOLOGY (DOE) TO SPONSOR WASHINGTON CONSERVATION CORPS (WCC) MEMBERS FOR RESTORATION AND CONSERVATION WORK

DATE: 09/30/2024

The City of Bellingham Parks and Public Works Department is requesting approval of the annual contract for one Washington Conservation Corps (WCC) crew. The crew works with Parks and Public Works Natural Resources staff to continue the City's long-term commitment to improving and protecting the community's water quality, salmon habitat, and open space. The City's WCC crews serve the City though an inter-agency agreement with the Department of Ecology. The WCC program is a partnership between the City of Bellingham, the Washington State Department of Ecology and the federal AmeriCorps program. It provides meaningful service and training opportunities to young adults (ages 18-25) and military veterans.

This crew will serve as a transition between use of WCC crews for restoration work and doing this work in house, and this contract will be managed by Parks & Recreation staff.

AGREEMENT NO WCC-24094

AGREEMENT BETWEEN

The State of Washington, Department of ECOLOGY
AND

City of Bellingham (SPONSOR)

THIS AGREEMENT is made and entered into by and between the Department of Ecology, hereinafter referred to as "ECOLOGY", and hereinafter referred to as the "SPONSOR."

IT IS THE PURPOSE OF THIS AGREEMENT to provide Washington Conservation Corps (WCC) members to complete environmental or disaster services projects, pursuant to Chapter 43.220 of the Revised Code of Washington.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK

Both parties agree to do all things necessary for or incidental to the performance of the work set forth in Appendix "A" attached hereto and incorporated herein.

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on 10/1/2024 and be completed on 9/30/2025 unless terminated sooner as provided herein. The WCC Crew and/or WCC Individual Placement corpsmember specified in this agreement will be available to SPONSOR on the dates set forth on the calendar in Appendix "B" attached hereto and incorporated herein.

COMPENSATION

The parties have determined that the cost of accomplishing the work herein will not exceed $167585. Payment for satisfactory performance of the work shall not exceed this amount unless the parties mutually agree to a higher amount. Compensation for service(s) shall be based on the following established rates:

Provided by ECOLOGY	Reimbursed to ECOLOGY by Sponsor
WCC Services	$167585
121 days WCC Crew time @ 1385/day	
Total SPONSOR Cost	$167585
	Above cost not to be exceeded

The costs reimbursed to ECOLOGY by SPONSOR are a cost-share rate. Estimated value of a WCC crew is $294,107 annually per WCC Crew consisting of five WCC/AmeriCorps Members and one WCC Supervisor and/or $40,896 annually per WCC Individual Placement. Indirect costs are included in SPONSOR share at a standard rate of 5% of direct costs.

BILLING PROCEDURE

ECOLOGY shall submit invoices monthly to the SPONSOR's designated contact person listed under "Agreement Management" section. Payment to ECOLOGY for approved and completed work will be made by warrant or account

transfer by SPONSOR within 30 days of receipt of the invoice. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

ASSURANCES

Parties to this Agreement agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

CONFORMANCE

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.

DISPUTES

If a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, if SPONSOR is a state agency, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

FUNDING AVAILABILITY

The obligation of the SPONSOR to provide reimbursements is contingent upon appropriation of funds by the SPONSOR's governing body for the specific purpose of funding the project, which is the subject of this Agreement. Upon the failure of such appropriation, the SPONSOR may terminate this Agreement.

ECOLOGY's ability to provide cost-share 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 completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, for convenience or to renegotiate the agreement subject to new funding limitations and 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 restrictions.

GOVERNING LAW AND VENUE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEPENDENT CAPACITY

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

INDEMNIFICATION

To the fullest extent permitted by law, each party shall defend, indemnify, and hold harmless the other party, including officials, agents, and employees from and against all claims of third parties, and all associated losses arising out of or resulting from the performance of the contract. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom. Parties waive their immunities under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the other party and their agencies, officials, agents or employees.

ORDER OF PRECEDENCE

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable federal and state of Washington statutes, regulations, and rules.
2. Mutually agreed written amendments to this Agreement
3. This Agreement
4. Statement of Work and Budget.
5. Any other provisions of this Agreement, including materials incorporated by reference.

RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of this Agreement and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties subject to state public disclosure laws.

RESPONSIBILITIES OF THE PARTIES

Each party of this Agreement hereby assumes responsibility for claims and/or damages to persons and/or property resulting from any act or omissions on the part of itself, its employees, its officers, and its agents. Neither party will be considered the agent of the other party to this Agreement.

RIGHTS IN DATA

Unless otherwise provided, data, which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be jointly owned by ECOLOGY and SPONSOR. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

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, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of

such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

TERMINATION FOR CONVENIENCE

Either party may terminate this Agreement upon 30 days prior written notification to the other party. 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.

WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

AGREEMENT MANAGEMENT

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement.

The Contract Manager for ECOLOGY is:	The Contract Manager for SPONSOR is:
Josiah Downey PO Box 47600 Olympia, WA 98504 (360) 480-2603 Josiah.downey@ecy.wa.gov	Freya Fradenburgh 2221 Pacific Street Bellingham WA 98225 360-778-7109 fsfradenburgh@cob.org; pwinvoices@cob.org

IN WITNESS WHEREOF, the parties have executed this Agreement.

State of Washington
Department of ECOLOGY

_____
Signature Date

_____
Printed Name, Title

SPONSOR

_____
Signature Date

_____
Printed Name, Title

STATEMENT OF WORK
Appendix A

Work summary:

Under direction of SPONSOR, crew(s) will perform restoration activities. Specific tasks could include invasive control, native species installation, plant nursery care, scientific monitoring, and fence installation or repair.

Special terms and conditions:

1. WCC resources (members, supervisors, tools and trucks) will not be utilized to clean public restrooms, monitor, survey, or clear active or abandoned encampments, and/or to clean up hazardous materials including hypodermic needles. If a significant amount of hazardous or unidentifiable material is discovered on a project site, activity will cease until SPONSOR mitigates potential hazards or finds an alternate project site. If active or abandoned encampments prevent WCC activities from taking place at a project site, WCC supervisors and members may contact their partner organization and work with their coordinator on alternative activities. While WCC can share active or abandoned encampment information with project partners when relevant to service activities, WCC personnel will not monitor, survey, or report on encampments directly to regulatory agencies or anyone other than a partner organization.

2. WCC vehicle is not to be used for heavy hauling; the primary use is for transportation of crew, tools, and safety equipment. In the event that WCC vehicles are requested to tow SPONSOR-provided equipment (including rentals), it will only be on a limited basis and SPONSOR is solely responsible for accidental damages, unless damages are caused by WCC negligence.

3. WCC is not responsible for normal wear and tear when project requires the use of SPONSOR-provided tools, equipment, or safety gear.

4. The assignment of members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of non-overtime work, wages, or other employment benefits. Agencies that participate in the program may not terminate, lay-off, or reduce working hours of any employee for the purpose of using a member with available funds. In circumstances where substantial efficiencies or a public purpose may result, participating agencies may use members to carry out essential agency work or contractual functions without displacing current employees.

5. All state holidays and shutdown weeks are non-working days for members. Shutdown weeks are to be used by WCC staff/supervisors for planning purposes. The WCC standard 40-hour schedule is Monday through Thursday from 7:00am to 5:30pm. An alternate schedule may be arranged with prior approval from the WCC.

6. WCC's cost-share rate is calculated using the full costs of supporting WCC crews and IPs, including time spent training, required community service events, shutdowns, etc. Indirect costs are included in SPONSOR share at a standard rate of 5% of direct costs.

7. If inclement weather makes a project site inaccessible, then the sponsor should reassign the WCC crew or IP to alternative projects in an accessible location.

In inclement weather, WCC crews follow the weather-related guidance (e.g. shut-down, delayed start, early end, etc.) from the regional Ecology office closest to the crew lock-up or IP service location. If the member's assigned location is more than one hour from an Ecology regional office, then WCC follows weather-related guidance of federal, state and

local governments. Only WCC can instruct a crew or IP to shut-down due to weather. Sponsors are not charged for WCC-initiated, weather related shut-downs or delays.

If a shut-down is requested by the SPONSOR for any reason, then the sponsor is responsible for crew costs.

ECOLOGY shall:

1. Provide WCC members for the number of weeks specified in this agreement. Full-term crews and Individual Placements are available to SPONSOR for a maximum of 164 days (approximately 41 weeks) during the Federal AmeriCorps program service year (October-September).

2. Enroll members to begin service no sooner than October 1, 2024 and no later than October 16, 2024 to attain a full AmeriCorps scholarship. Member vacancies may be filled with a 1200 hour, three-quarter-term AmeriCorps Education Award beginning January 16, 2025. Any further member enrollment for the remainder of the program year is at the discretion of ECOLOGY and based on availability.

3. In the event of a disaster response deployment, ECOLOGY will make every effort to fulfill SPONSOR needs, including sending additional members, whenever possible. Unless disaster response activities are requested by the sponsor, sponsors are not charged for WCC's emergency and disaster responses.

4. Provide training and development specified in Appendix B: eight days of formal WCC training, a two to four day Orientation Training, one day dedicated to MLK Community Service, one day of training in noxious weed control, and one day for a debrief meeting near the conclusion of the term. Beyond dates included in Appendix B, Ecology will schedule up to six additional days of Supervisor training or meetings during the term. WCC members and supervisors are logging hours on the dates identified for WCC-sanctioned events, but are unavailable to SPONSOR. ECOLOGY will provide a four day Assistant Supervisor training to the designated Assistant Supervisor.

5. Each full-term crew or IP may spend up to two weeks (eight days) with an alternative sponsor during the crew year. These dates will be determined in coordination with their full-term Sponsor.

6. For crews, ECOLOGY agrees to provide a crew of 5 members, a crew supervisor, vehicle, and basic hand tools. Rates are not based on actual attendance, however, invoices will be reduced for member or supervisor vacancies lasting 20 days or more.

SPONSOR shall:

1. Guide completion of appropriate projects for number of weeks specified in this agreement by providing logistical, technical and safety-related support necessary for project completion. Provide site orientation for WCC members, site-specific training, and materials beyond basic hand tools to complete tasks. Obtain and ensure adherence to applicable permits as set by local, state, tribal or federal laws and regulations.

2. Help promote the AmeriCorps and WCC brands, logo, slogans and phrases. WCC will provide camera-ready logo. AmeriCorps is a registered service mark of the Corporation for National and Community Service.

3. For a SPONSOR hosting Individual Placement positions, SPONSOR agrees to provide computer access, email, transportation to and from WCC events (or private mileage reimbursement), and day-to-day direction of activities.

4. For a SPONSOR hosting full-term WCC Crew(s), SPONSOR shall provide a secure site to store tools and park crew vehicles that allows access to potable water and restrooms as well as desk and internet access for the crew supervisor. In the event of theft, vandalism, or loss due to negligence of the SPONSOR, the SPONSOR shall provide reimbursement (75 percent sponsor share) of expenditures and deductibles.

5. For a SPONSOR that assigns WCC crew(s) or WCC Individual Placement members to serve with other organizations, SPONSOR shall inform the other organizations of WCC policies, procedures and contract terms.

AmeriCorps Prohibited Activities:

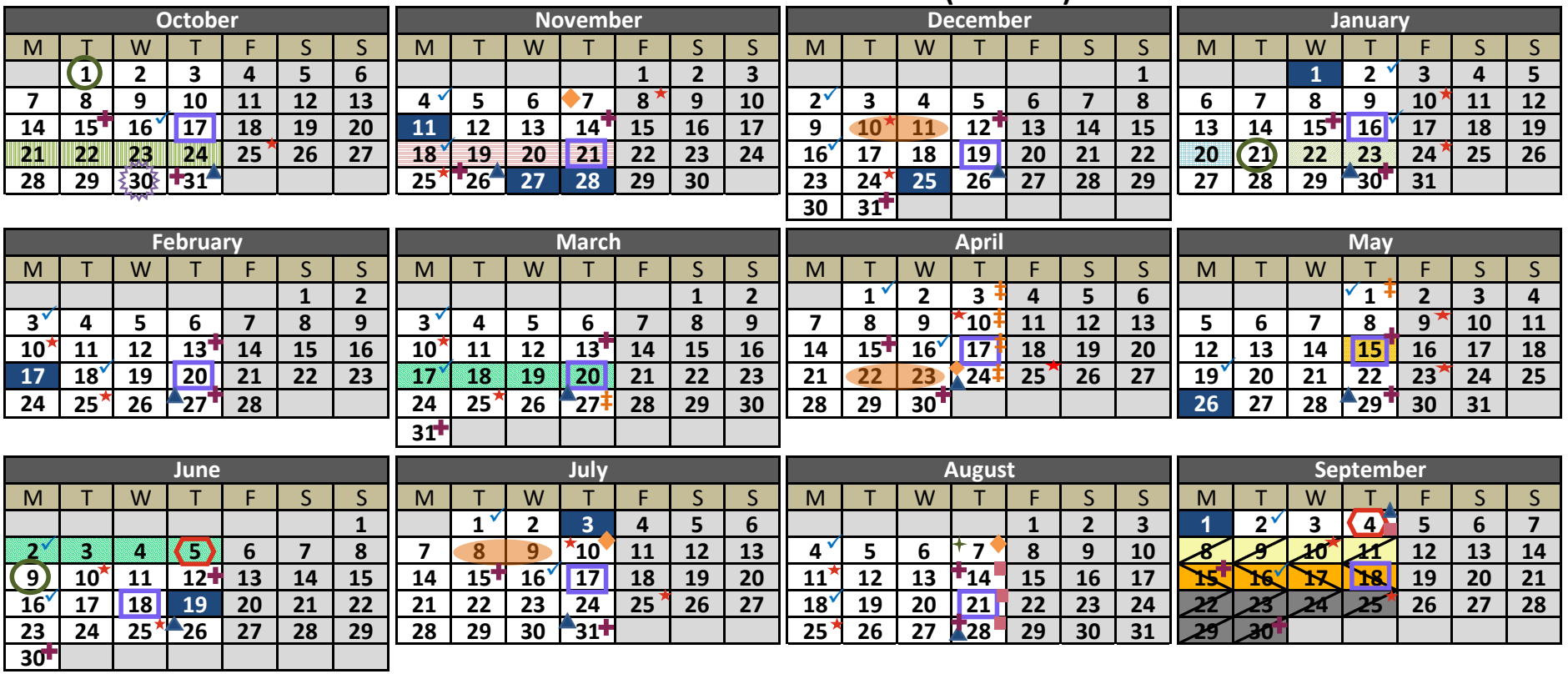
While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

A. Attempting to influence legislation;
B. Organizing or engaging in protests, petitions, boycotts, or strikes;
C. Assisting, promoting, or deterring union organizing;
D. Impairing existing contracts for services or collective bargaining agreements;
E. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
F. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
G. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
H. Providing a direct benefit to—
    I. A business organized for profit;
    II. A labor union;
    III. A partisan political organization;
    IV. A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 related to engaging in political activities or substantial amount of lobbying except that nothing in these provisions shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
    V. An organization engaged in the religious activities described in paragraph 3.g. above, unless AmeriCorps assistance is not used to support those religious activities;
I. Conducting a voter registration drive or using AmeriCorps funds to conduct a voter registration drive;
J. Providing abortion services or referrals for receipt of such services; and
K. Census Activities. AmeriCorps members and volunteers associated with AmeriCorps grants may not engage in census activities during service hours. Being a census taker during service hours is categorically prohibited. Census-related activities (e.g., promotion of the Census, education about the importance of the Census) do not align with AmeriCorps State and National objectives.
L. Election and Polling Activities. AmeriCorps members may not provide services for election or polling locations or in support of such activities
M. Such other activities as AmeriCorps may prohibit.

AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-AmeriCorps funds. Individuals should not wear the AmeriCorps logo while doing so

Appendix B WCC CALENDAR

2024-2025 WCC Events Calendar (Internal)



- Holiday observed) - day off
- Orientation Training Conference
- Assistant Supervisor Training
- MLK- Staff Holiday, Member service day
- IP meeting (in person)
- Training Conference
- 3/4-Term Member Orientation (virtual)
- Extended management & ops meeting
- TBD — Supervisor refresher trainings
- TBD — Spike (2 wks on special assignment)

- AmeriCorps swearing-in (virtual, 2 hrs)
- PDPs due (July: QT members only)
- eTime: Hours entered
- eTime: Prior pay period approval due
- Payday (10th & 25th, varies on weekends)
- Production (last Thursday of the month)
- Supervisors: Crew interviews
- Noxious Weed Control Workshops

3/27 Olympic; 4/3 S. Puget Sound; 4/10 Central/E. WA; 4/17 N. King County/Snohomish; 4/24 S. King County; 5/1 Northwest

- Start date (FT/Oct. 3QT=10/1, Jan. 3QT=1/21, QT=6/9)
- Credit card log due
- End date (FT/Jan. 3QT/QT=9/4, Oct. 3QT=6/5)
- End-of-year presentations: 8/14 Olympic; 8/21 S. Puget Sound; 8/28 Central/E. WA, S. King County & N. King County/Snohomish; 9/4 Northwest

Shutdown Weeks:

- Supervisors: Interviews and enrollment material
- Supervisors: Cross-training
- All-staff meeting & supervisor prep days

Members' potential hours (For general guidance only - hours not guaranteed)

October	190	November	130	December	170	January	170
February	150	March	170	April	180	May	160
June	160	July	180	August	160	September	30
Fullterm: Oct. 1-Sept. 4	1850	Oct. 3QT: Oct. 1-June 5	1360	Jan. 3QT: Jan. 21-Sept. 4	1260	QT: June 9-Sept. 4	490

FT: 1700-hr min, $7,395 Ed Award

3QT: 1200-hr min, $5,176.5 Ed Award

QT: 450-hr min, $1,956.35 Ed Award

WCC standard schedule (40 hours/week) is Monday - Sunday

AGREEMENT NO WCC-24091

AGREEMENT BETWEEN

The State of Washington, Department of ECOLOGY
AND

EJ - City of Bellingham (SPONSOR)

THIS AGREEMENT is made and entered into by and between the Department of Ecology, hereinafter referred to as "ECOLOGY", and EJ - City of Bellingham hereinafter referred to as the "SPONSOR."

IT IS THE PURPOSE OF THIS AGREEMENT to provide Washington Conservation Corps (WCC) members to complete environmental or disaster services projects, pursuant to Chapter 43.220 of the Revised Code of Washington.

THEREFORE, IT IS MUTUALLY AGREED THAT:

STATEMENT OF WORK
Both parties agree to do all things necessary for or incidental to the performance of the work set forth in Appendix "A" attached hereto and incorporated herein.

PERIOD OF PERFORMANCE
Subject to its other provisions, the period of performance of this Agreement shall commence on 10/1/2024 and be completed on9/30/2025 unless terminated sooner as provided herein. The WCC Crew is only available to SPONSOR on the dates set forth on the calendar in Appendix "B" attached hereto and incorporated herein.

AGREEMENT ALTERATIONS AND AMENDMENTS
This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

ASSIGNMENT
The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

ASSURANCES
Parties to this Agreement agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

CONFORMANCE
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.

DISPUTES

If a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, if SPONSOR is a state agency, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

FUNDING AVAILABILITY

ECOLOGY's ability to provide support specified in this contract 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 completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the agreement, in whole or part, for convenience, or to renegotiate the agreement subject to new funding limitations and 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 restrictions.

GOVERNING LAW AND VENUE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws. This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

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2. Mutually agreed written amendments to this Agreement
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4. Statement of Work
5. Any other provisions of this Agreement, including materials incorporated by reference.

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The parties to this Agreement shall each maintain books, records, documents and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other

personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration of this Agreement and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this Agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties subject to state public disclosure laws.

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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, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

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If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

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WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

AGREEMENT MANAGEMENT

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications regarding the performance of this Agreement.

The Contract Manager for ECOLOGY is:	The Contract Manager for SPONSOR is:
Josiah Downey PO Box 47600 Olympia, WA 98504 (360) 480-2603 Josiah.downey@ecy.wa.gov	Freya Fradenburgh 2221 Pacific St Bellingham, WA 98229 3607787111 fsfradenburgh@cob.org

IN WITNESS WHEREOF, the parties have executed this Agreement.

State of Washington
Department of ECOLOGY

_____
Signature Date

_____
Printed Name, Title

SPONSOR

_____
Signature Date

_____
Printed Name, Title

STATEMENT OF WORK
Appendix A

Service summary under WCC's Environmental Justice Pilot:

WCC crews will provide **11 weeks** of service to Sponsor under WCC's Environmental Justice Pilot. Under direction of SPONSOR, crew(s) will perform environmental restoration and recreation enhancement activities in areas of high need. Specific tasks could include invasive control, native species installation, plant nursery care, scientific monitoring, and fence installation or repair.

For crew time provided under WCC's Environmental Justice Pilot, projects assigned to crews must be consistent with the Request for Projects application submitted by the Sponsor. Prior to varying from activities described in the application, Sponsor must receive approval in writing of the WCC regional coordinator.

Estimated value of a WCC crew is $7,388 per week. When a crew travels overnight, there are additional subsistence costs. Generally, WCC shares costs with partner organizations at a cost share rate. With support from WCC's Environmental Justice Pilot, WCC will provide crew time under this agreement without requiring cost share from Sponsor. Sponsors are required to provide project direction, oversight, materials and specialty tools.

Special terms and conditions:

1. WCC resources (members, supervisors, tools and trucks) will not be utilized to clean public restrooms, monitor, survey, or clear active or abandoned encampments, and/or to clean up hazardous materials including hypodermic needles. If a significant amount of hazardous or unidentifiable material is discovered on a project site, activity will cease until SPONSOR mitigates potential hazards or finds an alternate project site. If active or abandoned encampments prevent WCC activities from taking place at a project site, WCC supervisors and members may contact their partner organization and work with their coordinator on alternative activities. While WCC can share active or abandoned encampment information with project partners when relevant to service activities, WCC personnel will not monitor, survey, or report on encampments directly to regulatory agencies or anyone other than a partner organization.

2. WCC vehicle is not to be used for heavy hauling; the primary use is for transportation of crew, tools, and safety equipment. In the event that WCC vehicles are requested to tow SPONSOR-provided equipment (including rentals), it will only be on a limited basis and SPONSOR is solely responsible for accidental damages, unless damages are caused by WCC negligence.

3. WCC is not responsible for normal wear and tear when project requires the use of SPONSOR-provided tools, equipment, or safety gear.

4. The assignment of members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of non-overtime work, wages, or other employment benefits. Agencies that participate in the program may not terminate, lay-off, or reduce working hours of any employee for the purpose of using a member with available funds. In circumstances where substantial efficiencies or a public purpose may result, participating agencies may use members to carry out essential agency work or contractual functions without displacing current employees.

5. All state holidays and shutdown weeks are non-working days for members. Shutdown weeks are to be used by WCC staff/supervisors for planning purposes. The WCC standard 40-hour schedule is Monday through Thursday from 7:00am to 5:30pm. An alternate schedule may be arranged with prior approval from the WCC.

6. If inclement weather makes a project site inaccessible, then the sponsor should reassign the WCC crew or IP to alternative projects in an accessible location. In inclement weather, WCC crews follow the weather-related guidance (e.g. shut-down, delayed start, early end, etc.) from the regional Ecology office closest to the crew lock-up or IP service location. If the member's assigned location is more than one hour from an Ecology regional office, then WCC follows weather-related guidance of federal, state and local governments. Only WCC can instruct a crew or IP to shut-down due to weather.

ECOLOGY shall:

1. Provide WCC members for the number of weeks specified in this agreement. Full-term crews and Individual Placements are available to SPONSOR for a maximum of 164 days (approximately 41 weeks) during the Federal AmeriCorps program service year (October-September).

2. Enroll members to begin service no sooner than October 1, 2024 and no later than October 16, 2024 to attain a full AmeriCorps scholarship. Member vacancies may be filled with a 1200 hour, three-quarter-term AmeriCorps Education Award beginning January 16, 2025. Any further member enrollment for the remainder of the program year is at the discretion of ECOLOGY and based on availability.

3. In the event of a disaster response deployment, ECOLOGY will make every effort to fulfill SPONSOR needs, including sending additional members, whenever possible. Unless disaster response activities are requested by the sponsor, sponsors are not charged for WCC's emergency and disaster responses.

4. Provide training and development specified in Appendix B: eight days of formal WCC training, a two to four day Orientation Training, one day dedicated to MLK Community Service, one day of training in noxious weed control, and one day for a debrief meeting near the conclusion of the term. Beyond dates included in Appendix B, Ecology will schedule up to six additional days of Supervisor training or meetings during the term. WCC members and supervisors are logging hours on the dates identified for WCC-sanctioned events, but are unavailable to SPONSOR. ECOLOGY will provide a four day Assistant Supervisor training to the designated Assistant Supervisor.

5. Each full-term crew or IP may spend up to two weeks (eight days) with an alternative sponsor during the crew year. These dates will be determined in coordination with their full-term Sponsor.

SPONSOR shall:

1. Guide completion of appropriate projects for number of weeks specified in this agreement by providing logistical, technical and safety-related support necessary for project completion. Provide site orientation for WCC members, site- specific training, and materials beyond basic hand tools to complete tasks. Obtain and ensure adherence to applicable permits as set by local, state, tribal or federal laws and regulations.

2. Help promote the AmeriCorps and WCC brands, logo, slogans and phrases. WCC will provide camera-ready logo. AmeriCorps is a registered service mark of the Corporation for National and Community Service.

3. For a SPONSOR hosting full-term WCC Crew(s), SPONSOR shall provide a secure site to store tools and park crew vehicles that allows access to potable water and restrooms as well as desk and internet access for the crew supervisor. In the event of theft, vandalism, or loss, the SPONSOR shall provide reimbursement (75 percent sponsor share) of expenditures and deductibles.

4. For a SPONSOR that assigns WCC crew(s) to serve with other organizations, SPONSOR shall inform the other organizations of WCC policies, procedures and contract terms.

AmeriCorps Prohibited Activities:

While charging time to the AmeriCorps program, accumulating service or training hours, or otherwise performing activities supported by the AmeriCorps program, staff and members may not engage in the following activities (see 45 CFR § 2520.65):

A. Attempting to influence legislation;
B. Organizing or engaging in protests, petitions, boycotts, or strikes;
C. Assisting, promoting, or deterring union organizing;
D. Impairing existing contracts for services or collective bargaining agreements;
E. Engaging in partisan political activities, or other activities designed to influence the outcome of an election to any public office;
F. Participating in, or endorsing, events or activities that are likely to include advocacy for or against political parties, political platforms, political candidates, proposed legislation, or elected officials;
G. Engaging in religious instruction, conducting worship services, providing instruction as part of a program that includes mandatory religious instruction or worship, constructing or operating facilities devoted to religious instruction or worship, maintaining facilities primarily or inherently devoted to religious instruction or worship, or engaging in any form of religious proselytization;
H. Providing a direct benefit to—
    I. A business organized for profit;
    II. A labor union;
    III. A partisan political organization;
    IV. A nonprofit organization that fails to comply with the restrictions contained in section 501(c)(3) of the Internal Revenue Code of 1986 related to engaging in political activities or substantial amount of lobbying except that nothing in these provisions shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative; and
    V. An organization engaged in the religious activities described in paragraph 3.g. above, unless AmeriCorps assistance is not used to support those religious activities;
I. Conducting a voter registration drive or using AmeriCorps funds to conduct a voter registration drive;
J. Providing abortion services or referrals for receipt of such services; and
K. Census Activities. AmeriCorps members and volunteers associated with AmeriCorps grants may not engage in census activities during service hours. Being a census taker during service hours is categorically prohibited. Census-related activities (e.g., promotion of the Census, education about the importance of the Census) do not align with AmeriCorps State and National objectives.
L. Election and Polling Activities. AmeriCorps members may not provide services for election or polling locations or in support of such activities
M. Such other activities as AmeriCorps may prohibit.

AmeriCorps members may not engage in the above activities directly or indirectly by recruiting, training, or managing others for the primary purpose of engaging in one of the activities listed above. Individuals may exercise their rights as private citizens and may participate in the activities listed above on their initiative, on non-AmeriCorps time, and using non-AmeriCorps funds. Individuals should not wear the AmeriCorps logo while doing so

City Council Agenda Bill

24266

Bill Number

Subject: **An Interlocal Agreement between Whatcom County and the City of Bellingham to Provide Parking for the Bellingham Senior Activity Center**

Summary Statement: Whatcom County and the City of Bellingham are proposing to renew an Interlocal Agreement to share in the cost of providing parking for community members utilizing the Bellingham Senior Activity Center. Whatcom County will enter into a Commercial Lease Agreement with Cornwall Center, Inc. to secure parking adjacent to the Bellingham Senior Center for $2,153 per month and maintain and manage the premises. The City will pay Whatcom County $1,436 per month.

Previous Council Action: **Approvals of the 2014 and 2019 Interlocal Agreement between Whatcom County and the City of Bellingham for Bellingham Senior Activity Center Parking**

Fiscal Impact: **Year 1 = $1,076.50/mo. and Year 2 = $1,108.50/mo.**

Funding Source: **General Fund**

Attachments:
1. INTERLOCAL AGREEMENT
2. EXHIBIT A - PARKING AREA

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Authorize Contract	Tara Sundin, Community and Economic Development Manager	2 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Tara Sundin, Planning and Community Development, 360-778-8300

Reviewed By	Department	Date
Blake G. Lyon	Planning & Community Development	08/15/2024
Amy B. Kraham	Legal	08/16/2024
Kimberley J. Lund	Executive	09/24/2024

Council Action:

2024 INTERLOCAL AGREEMENT
WHATCOM COUNTY – CITY OF BELLINGHAM
BELLINGHAM SENIOR ACTIVITY CENTER PARKING

WHEREAS, Whatcom County, 311 Grand Avenue, Bellingham, WA 98225 ("Whatcom County") and the City of Bellingham, 210 Lottie Street, Bellingham, WA 98225 ("Bellingham") desire to provide participant parking for the Bellingham Senior Activity Center ("Senior Center") located at 315 Halleck Street, Bellingham, WA 98225; and

WHEREAS, Whatcom County entered into a Commercial Lease Agreement with Cornwall Center Inc. to lease parking adjacent to the Bellingham Senior Activity Center (See EXHIBIT "A"); and

WHEREAS, RCW 39.34 allows municipalities to enter into interlocal agreements to set forth the conditions of providing services to one another; and

WHEREAS, it is in the best interest of such parties to enter into this Interlocal Agreement,

NOW THEREFORE, Whatcom County and the City of Bellingham agree as follows:

I. *Whatcom County Responsibilities*: Whatcom County hereby agrees:

A. Whatcom County will enter into a Commercial Lease Agreement with Cornwall Center Inc. to secure participant parking adjacent to the Bellingham Senior Center. Whatcom County will provide a copy of the executed Lease Agreement to the City.

B. Make monthly lease payments per month to Cornwall Center Inc.:
YEAR 1 7/1/24-6/30/25 $2,153/MONTH
YEAR 2 7/1/25-6/30/26 $2,217/MONTH

Whatcom County will provide documentation to Bellingham that monthly lease payments have been made to Cornwall Center Inc.

C. Secure additional funding from the Whatcom Council on Aging for their portion of the lease payments.

D. Keep the premises neat, clean and in sanitary condition, and keep and use the premises in accordance with applicable laws, ordinances, rules, regulations and requirements of governmental authorities.

E. Put up signs designating the parking lot for Bellingham Senior Activity Center participants and visitors only.

F. Whatcom County will assume the liability for the parking lot. The County agrees to defend, indemnify, and hold the City of Bellingham and its agents harmless from any claim, action and/or judgement for damages to property or injury to person, suffered or alleged to be suffered, on the premises by any person, firm or corporation, unless caused by the City of Bellingham's negligence.

II. *City of Bellingham Responsibilities:* Bellingham hereby agrees:

A. Bellingham will provide the following to assist with the monthly lease payments for the Senior Activity Center parking lot during the term of this agreement:

YEAR 1 7/1/24-6/30/25 $1,436/Month
YEAR 2 7/1/25-6/30/26 $1,479/Month

Payments will be made to the Whatcom County Parks & Recreation Department, 3373 Mount Baker

Highway, Bellingham WA 98226-9522. Bellingham will make such payments monthly upon receiving documentation under Section 1 that the expenses for which the funding will be used have been validly incurred and services rendered.

B. Term: This Agreement shall commence July 1, 2024 and shall continue until June 30, 2026, regardless of when the agreement is signed.

III. Responsible Persons*:* The parties do not intend to create a separate legal entity to conduct this undertaking. The persons responsible for the administration of this Agreement shall be the Whatcom County Parks & Recreation Department Director and the Bellingham Public Works Department Director.

IV. Termination: Bellingham's obligations under this agreement terminate if the Senior Center moves into a different facility and no longer utilizes the parking spaces the County leases from Cornwall Center, Inc.

DATED this _____ day of _____ 2024.

CITY OF BELLINGHAM

Departmental Approval:

_____ _____

Mayor Planning and Community Development Director

Attest: Approved as to Form:

_____ _____

Finance Director Office of the City Attorney

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

I CERTIFY that I know that Kim Lund is the person who appeared before me, and said person acknowledged that she signed this instrument on oath, stated that she was authorized to execute the instrument, and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

_____
DATED

_____
SIGNATURE OF NOTARY PUBLIC

_____
Name Printed

_____
MY APPOINTMENT EXPIRES

Executed as of the date first written above.

WHATCOM COUNTY

Approved as to form:

_____
Prosecuting Attorney Date

_____
Director Date
Parks & Recreation Department

Approved:

By: _____
Satpal Sidhu, Whatcom County Executive

STATE OF WASHINGTON)
)SS
COUNTY OF WHATCOM)

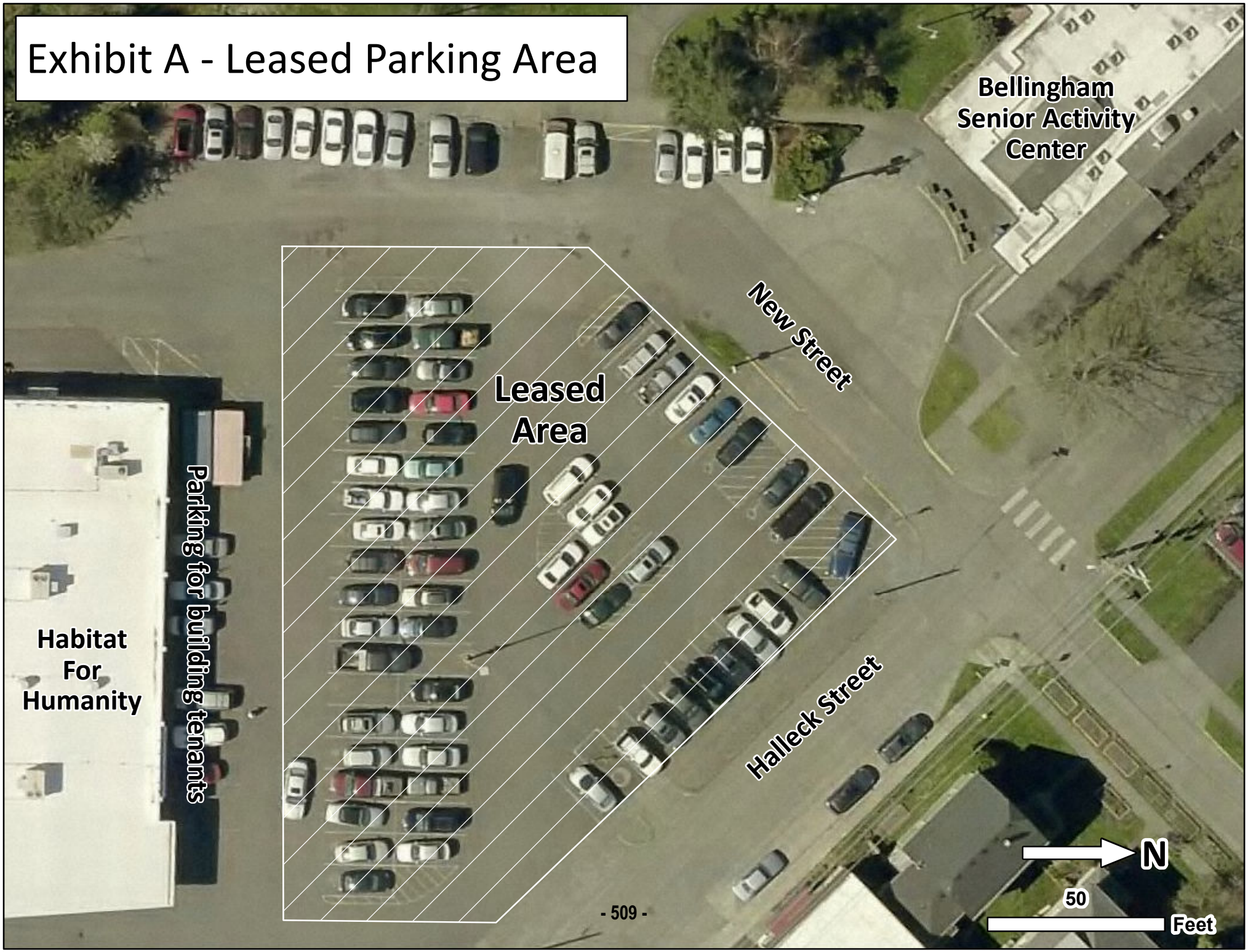
On this _____ day of _____,2024, before me personally appeared **Satpal Sidhu,** to me known as the County Executive of WHATCOM COUNTY and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Given under my hand and official seal this _____ day of _____, 2024.

_____
NOTARY PUBLIC in and for the State of Washington, residing in Bellingham

_____
My Commission expires

Exhibit A - Leased Parking Area



Document Path: I:\P&D\GIS\2014_GIS\Parks\BellinghamSeniorActivityCenter\MapDocuments\BellinghamSeniorActivityCenter_LeasedParkingExhibit_190425.mxd

City Council Agenda Bill

24264

Bill Number

Subject: **Approval of the 9/16/2024 City Council Committee and Regular Meeting Minutes**

Summary Statement: Approval of the 9/16/2024 City Council Committee and Regular Meeting Minutes.

Previous Council Action: **N/A**

Fiscal Impact: **N/A**

Funding Source: **N/A**

Attachments: 1. 9/16/2024 DRAFT CITY COUNCIL MEETING MINUTES

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Consent Agenda	09/30/2024	Vote to Approve	N/A	0 minutes

Recommended Motion:

Council Committee:

Agenda Bill Contact:
Jackie Weller, Council Staff

Council Action:

Reviewed By	Department	Date
Jackie A. Weller	Council Administration	09/23/2024
Alan A. Marriner	Legal	09/24/2024
Kimberley J. Lund	Executive	09/24/2024

City of Bellingham
Public Works and Natural Resources Committee Minutes
September 16, 2024, 1:00 PM

Mayor: Kimberley Lund
Council Members: Hannah Stone, Chair
Lisa Anderson, Michael Lilliquist

Contact: (360) 778-8100, mayorsoffice@cob.org
Contact: (360) 778-8200, ccmail@cob.org
https://cob.org/council

Call to Order
Council President Hammill called the meeting to order at 1:00pm.

Roll Call

Present:

Committee Chair Hannah Stone, First Ward
Committee Member Lisa Anderson, Fifth Ward
Committee Member Michael Lilliquist, Sixth Ward

Council Standing Committee Meeting
Open to the public to attend. Note: there is generally no public comment period for Committee sessions. Standing Committee Members receive reports and information, ask questions and, when appropriate, vote on a recommended action for consideration by the full Council at the Regular Meeting. The notice of Committee Meetings identified below also serves as notice of Special Meetings of the City Council at the times identified as Council Members who are not members of the committee routinely attend and participate in the Committee Meetings. Committee Chairs give a report of the Committee Meeting at the Regular Meeting in the evening prior to deliberation and formal vote.

24234 1. Bellingham Wetland Mitigation Bank Update p. 3

Joel Pfundt, Interim Public Works Director, ***Renee LaCroix***, Assistant PW Director of Natural Resources, and ***Analiese Burns***, Habitat and Restoration Manager, provided an update on the creation of a wetland mitigation bank. The goals of the mitigation bank are to improve the success of wetland and stream mitigation projects, achieve regional restoration goals, address temporal loss of aquatic resource functions, address mitigation needs for public and private developers, and streamline the mitigation process. Staff will return in the first quarter of 2025 for discussion and approval of an enabling ordinance for the bank. Council Members discussed the program and asked questions.

Adjournment
There being no further business, the meeting adjourned at 1:28pm.

DRAFT

City of Bellingham
Committee Of The Whole Minutes
September 16, 2024, 1:30 PM

Mayor: Kimberley Lund
Council Members: Hannah Stone, Hollie Huthman, Daniel Hammill, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist and Jace Cotton

Contact: (360) 778-8100, mayorsoffice@cob.org
Contact: (360) 778-8200, ccmail@cob.org
https://cob.org/council

Call to Order
Council President Hammill called the meeting to order at 1:30pm.

Roll Call

Present:

Council President Daniel Hammill, Third Ward
Council Member Hannah Stone, First Ward
Council Member Hollie Huthman, Second Ward
Council Member Edwin H. "Skip" Williams, Fourth Ward
Council Member Lisa Anderson, Fifth Ward
Council Member Michael Lilliquist, Sixth Ward
Council Member Jace Cotton, At-Large

Council Standing Committee Meetings:
Open to the public to attend. Note: there is generally no public comment period for Committee sessions. Standing Committee Members receive reports and information, ask questions and, when appropriate, vote on a recommended action for consideration by the full Council at the Regular Meeting. The notice of Committee Meetings identified below also serves as notice of Special Meetings of the City Council at the times identified as Council Members who are not members of the committee routinely attend and participate in the Committee Meetings. Committee Chairs give a report of the Committee Meeting at the Regular Meeting in the evening prior to deliberation and formal vote.

Please be advised that if the City Council is ahead of schedule, they may start with old/new business before the official Committee of the Whole meeting time.

24235 1. An Ordinance Establishing a Shelter Protection Area Immediately Adjacent to the Way Station Located at 1500 N State Street within which Certain Activities that Adversely Affect the Operations and Residents of the Way Station and the Adjacent Area are Prohibited in Public Spaces **p. 3**

Mayor Lund, ***Alan Marriner***, City Attorney, ***Blake Lyon***, Planning & Community Development Director, and ***Deputy Police Chief Almer***, presented the draft ordinance which modifies the shelter protection area around the future Way Station at 1500 N State Street. ***Steen Brochner-Nielsen***, Facilities Manager at Unity Care Northwest, and ***Marisa Schoeppach***, Homeless Outreach Team Coordinator at the Opportunity Council, spoke in support of the ordinance. After the Way Station is complete, services to unhoused individuals and families will be provided in partnership by Unity

Care NW, the Opportunity Council, and PeaceHealth. Services include medical and behavioral health services, restrooms, shower and laundry services, case management, and a medical respite program. Past Shelter Protection Areas established around interim housing facilities in the City increased safety for clients and reduced negative behaviors and impacts such as debris, disorderly conduct, and property damage. Council Members discussed the ordinance and asked questions.

Daniel Hammill / Edwin H. "Skip" Williams moved to recommend approval of the ordinance establishing a shelter protection area immediately adjacent to the Way Station located at 1500 N State Street within which certain activities that adversely affect the operations and residents of the Way Station and the adjacent area are prohibited in public spaces as amended.

Daniel Hammill / Edwin H. "Skip" Williams moved to amend the ordinance to revise Section 1. to include the area surrounding the Eleanor Apartments building.

AMENDMENT CARRIED 7-0.

AMENDED MOTION CARRIED 7-0.

24236 2. A Resolution Opposing the Proposed Merger of Albertsons and Kroger p. 11

Council Member Cotton presented the draft resolution opposing the proposed merger between Albertsons and Kroger. The resolution would formally oppose the merger and transmit copies of the resolution to the Federal Trade Commission, Washington State Attorney General, and the CEOs of Kroger and Albertsons.

Jace Cotton / Hollie Huthman moved to recommend approval of the resolution opposing the proposed merger of Albertsons and Kroger as amended.

Michael Lilliquist / Lisa Anderson moved to amend the resolution,

"WHEREAS, approval of this merger would ~~almost certainly~~ to **most likely** lead to store closures, undermine thousands of unionized grocery jobs in Washington, likely increase prices for consumers, and increase food insecurity."

AMENDMENT CARRIED 7-0.

Michael Lilliquist / Lisa Anderson moved to amend the resolution,

"Section 1. That the City Council of Bellingham opposes ~~the proposed merger~~ **any merger proposal** of Albertsons and Kroger **that would lead to store closures,** and supports the Attorney General's lawsuit to block the merger."

AMENDMENT FAILED 0-7.
Opposed: Daniel Hammill, Hannah Stone, Hollie Huthman, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist, Jace Cotton

AMENDED MOTION CARRIED 7-0.

3. Old/New Business

Council Member Stone sought clarification on Consent Agenda item #2, Sub-Recipient Agreement; Whatcom County, City of Bellingham, & What-Comm Communications Center Contract Number C2401002, and if this is a routine contract for reimbursement or if this is additional monies based upon new work.

Council Member Lilliquist expressed appreciation for the Bellingham Public Library Director for supporting the "What is Addiction: Plain Talk for our Community" event held on September 12th. Council Member Anderson added her support for the event. The video is available via BTV.

Council Member Cotton shared that work continues on the draft ordinance prohibiting excessive residential rental fees and plans to bring an ordinance forward for consideration at Council's September 30, 2024 meeting.

Mayor Lund provided an update on two large encampments on Stuart-Deemer Road and at Northwest-Bakerview Road. The City is pursuing actions against these encampments and actively working with the property owners. The public can learn more online about the City's actions and resources.

Council President Hammill recognized Dr. Shannon Boustead for his presentation at the community event on addiction held earlier this month. He also highlighted that Dr. Boustead, Lisa Marx, Western State Carpenters Reentry Program, and Andrew Hovenden, Outpatient Program Manager at the Lake Whatcom Center, will be attending the Incarceration and Prevention Taskforce subcommittee meetings on September 17th at 11:30am. He encouraged the community to attend County committee workgroups.

Council President Hammill thanked ***Deputy Police Chief Almer*** and ***Deputy Police Chief Monson*** for allowing him and Council Member Lilliquist to attend a recent training to engage with the City's police force.

Council moved into Executive Session at 1:50pm to discuss six items until 2:44pm.

1. Potential Property Acquisition
2. Potential Property Acquisition
3. Potential Property Acquisition
4. Potential Property Acquisition
5. Labor Relations: Discuss Collective Bargaining Strategy
6. Labor Relations: Review contract proposal for the Guild of Pacific Northwest Employees, Local 1937

Adjournment

There being no further business, the meeting adjourned at 2:44pm.

City of Bellingham
City Council Regular Meeting Minutes
September 16, 2024, 7:00 PM

Mayor: Kimberley Lund
Council Members: Hannah Stone, Hollie Huthman, Daniel Hammill, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist and Jace Cotton

Contact: (360) 778-8100, mayorsoffice@cob.org
Contact: (360) 778-8200, ccmail@cob.org
https://cob.org/council

Call to Order
The City Council Regular meeting was called to order by Council President Hammill at 7:00pm.

Announcements & Upcoming Meetings:
Bellingham City Council meets all requirements of the State of Washington Open Public Meetings Act.

1. **Land Acknowledgement Statement**
   Before we begin, we acknowledge that we are gathered on the traditional and unceded territory of the Lummi, Nooksack, Samish and Semiahmoo People who have cared for and tended this land since time immemorial. Truth and acknowledgment are critical to building mutual respect and connection across all barriers of heritage and difference. We begin this effort to acknowledge what has been buried by honoring the truth. We pay respect to their elders past and present. Please take a moment to consider the many legacies of violence, displacement, migration, and settlement that bring us together here today. And please join us in uncovering such truths at any and all public events.

2. **Language Access**
   The Bellingham City Council provides Spanish interpretation at all regular evening meetings. Interpretation can be accessed by in-person attendees by utilizing the headsets located at the front of the room. Remote viewers can log on to cob.org/cczoom and click on the "Language" icon at the bottom of the screen to listen in Spanish.

Roll Call

Present:

Council President Daniel Hammill, Third Ward
Council Member Hannah Stone, First Ward
Council Member Hollie Huthman, Second Ward
Council Member Edwin H. "Skip" Williams, Fourth Ward
Council Member Lisa Anderson, Fifth Ward
Council Member Michael Lilliquist, Sixth Ward
Council Member Jace Cotton, At-Large

Mayor's Report
Standing time for briefings, updates, and reports to Council by the Mayor.

24232 1. Mayor's Appointment to the Bellingham-Whatcom County Commission on Sexual and Domestic Violence (Information) **p. 6**

Mayor Lund appointed ***Annie Taylor*** to her first partial term on the Bellingham-Whatcom County Commission on Sexual and Domestic Violence, which will expire on January 31, 2025.

24233 2. Mayor's Appointments to the Mayor's Neighborhood Advisory Commission (Information) **p. 14**

Mayor Lund made the following appointments to the Neighborhood Advisory Commission:

- ***Robin Thomas*** as the Sehome Neighborhood Primary Representative to her first partial term, which will expire on June 21, 2026
- ***Jan Dietzgen*** as the Fairhaven Neighborhood Primary Representative to her first full term, which will expire on October 18, 2026
- ***Jessica Orr*** as the South Neighborhood Primary Representative to her first partial term, which will expire on August 16, 2025.

Mayor Lund expressed gratitude that the City Council will vote to ratify a new Guild of Pacific Northwest Employees, Local 1937 Labor Agreement tonight.

Mayor Lund shared that the City is working with businesses to alter current outdoor structures located on Holly Street and is reviewing the bike lane pilot. The administration will return to Council later this fall with program updates.

Mayor Lund emphasized the importance of the City's downtown corridor to the community. A new Downtown Forward progress report is available online and all are invited to attend a Downtown Forward Celebration on September 19th.

Mayor Lund provided recruitment updates including the hiring of the Strategic Initiatives Manager - Health & Human Services position. The City has also received several bids to assist in the recruitment of the Human Resource Director and Public Works Director positions. The HR Director position will be prioritized.

Mayor Lund encouraged the community to participate in City Advisory Boards. Learn more and apply online.

Mayor Lund reiterated remarks made during the Committee of the Whole meeting of the City's work to address unauthorized encampments. For the full remarks, see the committee video and learn more online about the City's actions and resources.

Mayor Lund highlighted that September 14-22 is Whatcom Water Week and there are many educational and volunteer opportunities. Learn more online.

DRAFT

Regular Meeting and Committee Sessions
The following are heard in both Committee sessions and Regular Meeting in order below:
Council Standing Committee Meetings:

Public Works and Natural Resources 1:00 PM
Hannah Stone, Chair
Lisa Anderson, Michael Lilliquist

24234 1. Bellingham Wetland Mitigation Bank Update p. 21

Joel Pfundt, Interim Public Works Director, ***Renee LaCroix***, Assistant PW Director of Natural Resources, and ***Analiese Burns***, Habitat and Restoration Manager, provided an update on the creation of a wetland mitigation bank. The goals of the mitigation bank are to improve the success of wetland and stream mitigation projects, achieve regional restoration goals, address temporal loss of aquatic resource functions, address mitigation needs for public and private developers, and streamline the mitigation process. Staff will return in the first quarter of 2025 for discussion and approval of an enabling ordinance for the bank. Council Members discussed the program and asked questions.

Committee Of The Whole 1:30 PM
Daniel Hammill, Chair
Hannah Stone, Hollie Huthman, Edwin H. "Skip" Williams, Lisa Anderson, Michael Lilliquist, Jace Cotton

24235 1. An Ordinance Establishing a Shelter Protection Area Immediately Adjacent to the Way Station Located at 1500 N State Street within which Certain Activities that Adversely Affect the Operations and Residents of the Way Station and the Adjacent Area are Prohibited in Public Spaces p. 37

Mayor Lund, ***Alan Marriner***, City Attorney, ***Blake Lyon***, Planning & Community Development Director, and ***Deputy Police Chief Almer***, presented the draft ordinance which modifies the shelter protection area around the future Way Station at 1500 N State Street. ***Steen Brochner-Nielsen***, Facilities Manager at Unity Care Northwest, and ***Marisa Schoeppach***, Homeless Outreach Team Coordinator at the Opportunity Council, spoke in support of the ordinance. After the Way Station is complete, services to unhoused individuals and families will be provided in partnership by Unity Care NW, the Opportunity Council, and PeaceHealth. Services include medical and behavioral health services, restrooms, shower and laundry services, case management, and a medical respite program. Past Shelter Protection Areas established around interim housing facilities in the City increased safety for clients and reduced negative behaviors and impacts such as debris, disorderly conduct, and property damage. Council Members discussed the ordinance and asked questions.

Daniel Hammill / Edwin H. "Skip" Williams moved for first and second reading the ordinance as amended during the Committee of the Whole meeting.

MOTION CARRIED 7-0.

24236 2. A Resolution Opposing the Proposed Merger of Albertsons and Kroger p. 45

Council Member Cotton presented the draft resolution opposing the proposed merger between Albertsons and Kroger. The resolution would formally oppose the merger and transmit copies of the resolution to the Federal Trade Commission, Washington State Attorney General, and the CEOs of Kroger and Albertsons.

Daniel Hammill / Edwin H. "Skip" Williams moved final approval of **Resolution #2024-22** as amended during the Committee of the Whole meeting.

MOTION CARRIED 7-0.

3. Old/New Business

There were no discussion items for Old/New Business. Council President Hammill encouraged the public to listen into the Committee of the Whole Old/New Business discussions.

Executive Session 1:50 PM

Closed to the public. Report in the Regular Meeting only:

1. Potential Property Acquisition (Stamps, approx. 5 min)

Staff provided information on a potential Lake Whatcom Watershed property acquisition. For information and discussion. No action taken.

2. Potential Property Acquisition (Stamps, approx. 5 min)

Staff provided information on a potential Lake Whatcom Watershed property acquisition. For information and discussion. No action taken.

3. Potential Property Acquisition (Stamps, approx. 5 min)

Staff provided information on a potential Lake Whatcom Watershed property acquisition totaling 4 acres with one potential development unit.

Edwin H. "Skip" Williams / Michael Lilliquist moved to authorize the Mayor to close the real estate transaction described in the City's executed purchase and sale agreement with the property owners, Annette and Gloria Schenck and Sandy Collman, with a purchase price of $340,000 and with closing to occur on or around September 27, 2024.

MOTION CARRIED 7-0.

4. Potential Property Acquisition (Stamps, approx. 5 min)

Staff provided information on a potential Lake Whatcom Watershed property acquisition totaling 40.79 acres with one potential development unit.

DRAFT

Edwin H. "Skip" Williams / Hollie Huthman moved to authorize the Mayor to close the real estate transaction described in the City's executed purchase and sale agreement with the property owners, Dennis and Maureen Handel, with a purchase price of $205,000 and with closing to occur on or around October 4, 2024.

MOTION CARRIED 7-0.

5. Labor Relations: Discuss Collective Bargaining Strategy (Beatty, approx. 5 min.)

Staff provided information on a labor relations matter. For information and discussion. No action taken.

6. Labor Relations: Review contract proposal for the Guild of Pacific Northwest Employees, Local 1937 (Beatty, approx. 10 min.)

Staff provided information on the proposed 2023-2024 collective bargaining agreement between the City and the Guild of Pacific Northwest Employees, Local 1937.

Lisa Anderson / Edwin H. "Skip" Williams moved to ratify the agreement reached with the following general terms:

DURATION: January 1, 2024 through December 31, 2025.

WAGES AND COMPENSATION:

- Effective January 1, 2024: 4% COLA
- Effective January 1, 2024: Reallocate positions in salary grades 1-4 up by one salary grade
- Effective January 1, 2025: 3% COLA
- Effective January 1, 2025: $1.00 market adjustment applied to each step
- Effective January 1, 2025: increase deferred compensation match to 2%

MEDICAL INSURANCE:

- Increase the City's contribution to Medical Health Care by 6% each year.

MOTION CARRIED 7-0.

Consent Agenda

All matters listed on the Consent Agenda are considered routine and/or non-controversial items and may be approved in a single motion. A member of the Council may ask that an item be removed from the Consent Agenda and considered separately.

24237 1. 2023 STOP Violence Against Women Formula Grant Program to be Used in 2024 p. 48

24238 2. Sub-Recipient Agreement; Whatcom County, City of Bellingham, & What-Comm Communications Center Contract Number C2401002 p. 77

24239	**3.**	**Authorization of Payroll Labor Cost Payments Dated August 1, 2024 to August 15, 2024**	**p. 97**
24240	**4.**	**Authorization of A/P Transactions Issued August 16, 2024 through August 22, 2024**	**p. 98**
24241	**5.**	**Authorization of A/P Transactions Issued August 23, 2024 through August 29, 2024**	**p. 99**
24242	**6.**	**Authorization of A/P Transactions Issued August 30, 2024 through September 05, 2024**	**p. 100**
24243	**7.**	**Approval of the 8/2/24 Growth Management Coordination Special City Council Meeting Minutes**	**p. 101**
24244	**8.**	**Approval of the 8/5/24 Special City Council Meeting Minutes Regarding the City Fiber Network Comprehensive Plan**	**p. 104**
24245	**9.**	**Approval of the 8/26/24 City Council Committee and Regular Meeting Minutes**	**p. 107**
24246	**10.**	**Approval of the 8/29/2024 Growth Management Coordination Special City Council Meeting Minutes**	**p. 126**

Hollie Huthman / Jace Cotton moved approval of the Consent Agenda in its entirety.

MOTION CARRIED 7-0.

Final Consideration of Ordinances

24219	**1.**	**An Ordinance Accepting the Donation of Real Property to the City of Bellingham Parks and Recreation Department from David and Carol Robinson**	**p. 130**

Lisa Anderson / Michael Lilliquist moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: Hammill, Stone, Huthman, Williams, Anderson, Lilliquist, Cotton
NAYS: (None)
EXCUSED: (None)

MOTION CARRIED 7-0 and was thereafter named **Ordinance #2024-09-023**.

24222	**2.**	**An Ordinance Amending the 2023-2024 Biennial Budget - Amendment No. 14**	**p. 133**

Hollie Huthman / Edwin H. "Skip" Williams moved approval for third and final reading. Upon motion, said bill was placed on final passage and approved by the following roll call vote:

AYES: Hammill, Stone, Huthman, Williams, Anderson, Lilliquist, Cotton
NAYS: (None)

EXCUSED: (None)

MOTION CARRIED 7-0 and was thereafter named **Ordinance #2024-09-024**.

Public Comment Period

City Council heard public comments from 33 individuals.

To access the recording visit, Public Comment Period Recordings - City of Bellingham (cob.org).

Adjournment

There being no further business, the meeting adjourned at 8:53pm.

Daniel Hammill, Council President

ATTEST: Kelley Goetz, Deputy City Clerk
APPROVED: 9/30/2024

DRAFT

City Council Agenda Bill

24235

Bill Number

Subject: **An Ordinance Establishing a Shelter Protection Area Immediately Adjacent to the Way Station Located at 1500 N State Street within which Certain Activities that Adversely Affect the Operations and Residents of the Way Station and the Adjacent Area are Prohibited in Public Spaces**

Summary Statement: Seeking approval of an ordinance that will establish a Shelter Protection Area around the future Way Station project, located at 1500 N State Street. The facility is owned by Whatcom County, and is undergoing a substantial renovation. After the remodel is complete, the building will offer a number of services to unhoused individuals and families, provided in partnership by Unity Care NW, the Opportunity Council, and PeaceHealth. Services include medical and behavioral health services, restrooms, shower and laundry services, case management, and a medical respite program for unhoused individuals being discharged from the hospital.

Previous Council Action: **None**

Fiscal Impact: **Staff Time**

Funding Source: **General Fund**

Attachments:
1. ORDINANCE AS AMENDED 9.16.24
2. EXHIBIT A AS AMENDED 9.16.24

Meeting Activity	Meeting Date	Recommendation	Presented By	Time
Committee Briefing - Vote Requested	09/30/2024	Pass Ordinance	Alan Marriner, City Attorney	5 minutes

Recommended Motion: Motion to pass ordinance

Council Committee:
Committee Of The Whole

Agenda Bill Contact:
Alan Marriner, City Attorney, 360-778-8270

Reviewed By	Department	Date
Blake G. Lyon	Planning & Community Development	09/09/2024
Alan A. Marriner	Legal	09/10/2024
Kimberley J. Lund	Executive	09/10/2024

Council Action: Hammill / Williams Moved 1st and 2nd. MOTION CARRIED 7-0
9/16/2024

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM ESTABLISHING A SHELTER PROTECTION AREA IMMEDIATELY ADJACENT TO THE WAY STATION LOCATED AT 1500 N. STATE ST. WITHIN WHICH CERTAIN ACTIVITIES THAT ADVERSELY AFFECT THE OPERATIONS AND RESIDENTS OF THE WAY STATION AND THE ADJACENT AREA ARE PROHIBITED IN PUBLIC SPACES.

WHEREAS, the Way Station ("Facility") consists of a substantial renovation of an existing Whatcom County-owned facility located at 1500 N State Street; and

WHEREAS, the Facility features a partnership between Whatcom County, Opportunity Council, Unity Care NW, and PeaceHealth and will provide a range of services to homeless individuals and families in the community; and

WHEREAS, Unity Care NW will provide healthcare and hygiene services at the Way Station. Its clinical and hygiene program will include access to restrooms, showers, and laundry facilities, as well as medical and behavioral health services. This program will operate during normal business hours and serve clients on a walk-in basis; and

WHEREAS, the Opportunity Council and PeaceHealth will operate a respite program at the Facility, which will provide overnight, recuperative care for up to 20 homeless individuals in need of safe housing to recover after being discharged from the hospital. Guests will be referred to the respite program from PeaceHealth and will receive sleeping accommodations, food, hygiene facilities, and referrals to other supportive services; and

WHEREAS, the City issues a SEPA Determination of Non-Significance for the Facility on March 24, 2022; and

WHEREAS, guests accessing all services at the Way Station will be required to abide by a code of conduct; and

WHEREAS, the Lighthouse Mission Ministries ("LMM") is a non-profit organization that has been operating in Bellingham since 1923, and currently works throughout Whatcom County to break the cycle of homelessness by providing meals, shelter, case management, recovery support, and counseling to persons experiencing homelessness; and

WHEREAS, since July 2020, LMM has operated a homeless shelter in the City called "Base Camp" at the old Public Market at 1522/1530 Cornwall Avenue; and

WHEREAS, the following behaviors and impacts have been observed in the vicinity of Base Camp and other facilities within the City providing shelter and services for persons experiencing homelessness: debris, human waste, animal waste, unauthorized encampments, disorderly conduct, property damage, fires, public urination, pedestrian and vehicular obstruction, and public intoxication, with a substantial portion of the problematic behavior occurring during the hours of darkness; and

WHERAS, on October 20, 2020, the City adopted a shelter protection area around Base Camp, within which certain activities that adversely affected the operations of Base Camp, the residents of Base Camp, and the adjacent area were prohibited in permit parking areas and other public spaces; and

WHEREAS, the creation of the shelter protection area around Base Camp resulted in a reduction in negative behaviors and impacts in the area including debris, human waste, animal waste, unauthorized encampments, disorderly conduct, property damage, fires, public urination, pedestrian and vehicular obstruction, and public intoxication; and

WHEREAS, the City has determined that the designation of a similar shelter protection area around Way Station, will improve the safety of those who will obtain services at or reside in the Facility, the operation of the Facility, and public safety in the adjacent area; and

WHEREAS, the establishment of a narrowly tailored shelter protection area will minimize inappropriate behaviors in proximity to the Facility, significantly reduce the opportunity for adverse behaviors and impacts in the area, and encourage such behavior to be dispersed rather than concentrated; and

WHEREAS, the City finds that the establishment of a shelter protection area will not adversely affect the ability of the public, both housed and unsheltered, to use the City's rights-of-way generally or find alternative places to park, congregate, or sit; and

WHEREAS, it is the intent of the City to address these issues with empathy, compassion, and recognition of the rights of all those persons who experience homelessness by utilizing education, social outreach, referral to social service and mental health providers, incremental enforcement, and the least intrusive means of enforcement available to achieve compliance, while providing City staff with narrowly tailored tools to ensure the success of the Facility; and

WHEREAS, it is the intent of the City to implement this ordinance with ample notice of the shelter protection area through outreach to provide education and warnings, all prior to taking enforcement action; and

WHEREAS, the Bellingham City Council possesses authority under RCW 35.22.280 and the Constitution of the State of Washington, Art. 11 § 11, to adopt ordinances regulating the use of public rights-of-way, streets, and other public places; and

WHEREAS, the Bellingham City Council possesses authority under RCW 46.61.570 to adopt ordinances placing restrictions on parking within the City; and

WHEREAS, the City's traffic engineer, under the supervision of the public works director, is authorized under BMC 11.33.060 to establish permit parking areas within the public right-of-way and to impose restrictions for parking in such areas including such restrictions and conditions as time and duration of parking, application processes, limitations on the number of vehicles registered to a permit, speed limits within the parking area, and periods of closure; and

WHEREAS, the City Council has considered this matter during a regularly scheduled public meeting, has given this matter careful review and consideration and finds that establishing regulations to protect the Facility, residents of the Facility, adjacent property owners and businesses, and the community from adverse behaviors is in the public interest.

NOW THEREFORE, the City of Bellingham does ordain as follows:

Section 1: The City Council hereby adopts the "WHEREAS" clauses set forth above as findings of the Council. Based on such findings, the City hereby designates the two and a half block area around the proposed Facility at 1500 N. State Street and within the outer edges of E. Champion Street, York Street and the Walton Place parking lot and the middle of Ellis Street from its intersection with York Street to its intersection with E. Champion Street as depicted in Exhibit A to this ordinance as a shelter protection area subject to the restrictions and prohibitions set forth in BMC 10.24.070 B. and 11.33.060 A. (40). A site-specific plan shall be prepared that illustrates the exact location and extent of the shelter protection area and shall be posted conspicuously on the protection area boundary. The shelter protection area designation shall take effect on the date that the City issues a Certificate of Occupancy for the Facility, and it shall remain in effect until City Council rescinds the designation by ordinance.

Section 2: The City Attorney and the codifiers of this ordinance are authorized to make necessary clerical corrections including, but not limited to, the correction of scriveners/clerical errors, references, ordinance numbering, section/subsection numbers and any reference thereto.

Section 3: If any section, sentence, clause, or phrase (i.e., provision) of this ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this ordinance, or the application of such provisions to other persons or circumstances, shall not be affected.

PASSED by the Council this _ day of _____, 2024.

_____
Council President

APPROVED by me this _ day of _____, 2024.

_____
Mayor

ATTEST:_____
Finance Director

APPROVED AS TO FORM:

_____
Office of the City Attorney

Published:

_____

Exhibit A
Map of Shelter Protection Area

