



# Lake Whatcom Water & Sewer District Board Meeting Access Information

**Next Meeting:** Wed January 10, 2023  
6:30 - 8:30 pm

Join the meeting from your computer, tablet smartphone: <https://meet.goto.com/lwwsd/boardmeeting>

You can also dial in using your phone.

Call: [+1 \(224\) 501-3412](tel:+12245013412) Access Code: 596-307-141 Press \*6 to mute/unmute your microphone

New to GoToMeeting? Get the app now and be ready when the meeting starts:

<https://meet.goto.com/install>

## ATTENDING A MEETING

*How to Participate*

### MEETINGS ARE HYBRID

Our meetings are held in a hybrid format. You may attend in person at our administrative office or virtually through the GoTo platform.



### COMMUNICATING WITH US



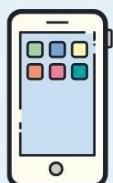
If you wish to make a public comment, you may submit it in written form via email or the contact form on our website, or utilize the public comment periods during the District's regular meetings.

### ATTENDING ANONYMOUSLY

If you wish to observe a meeting, but do not plan to actively participate, you may attend anonymously. Turn off your mic & camera, and change display name to "Observation Only."



### ACCESS INFORMATION



We use GoTo for virtual access to our meetings. Download the app, sign in through your browser, or use a phone to call in for audio-only participation. Access information for specific meetings is in the meeting packet.

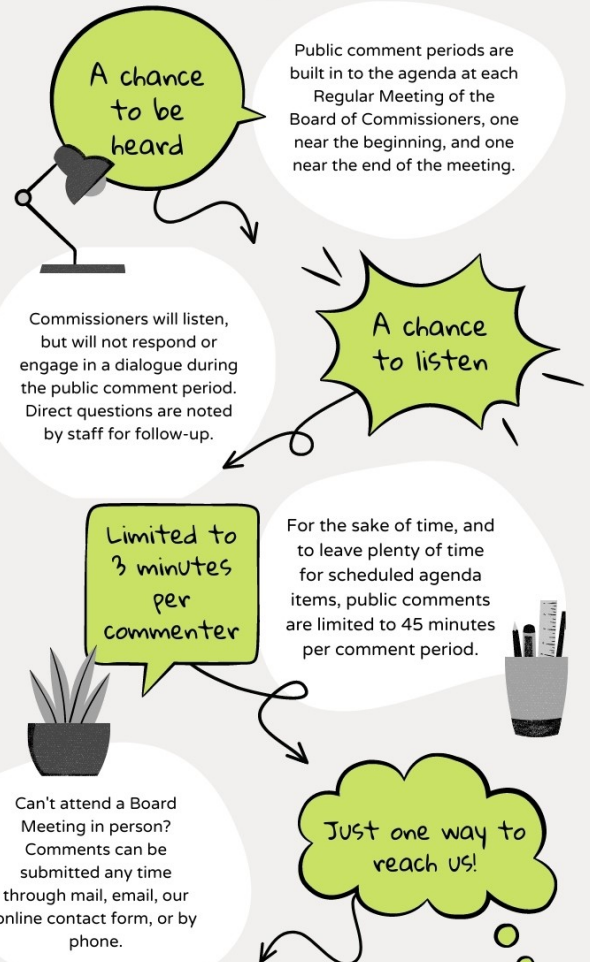
### QUESTIONS?

If you have questions about attending an upcoming meeting, please contact Administrative Assistant Rachael Hope at [rachael.hope@lwwsd.org](mailto:rachael.hope@lwwsd.org) or 360-734-9224.



## Public Comment Periods

Lake Whatcom Water & Sewer District's Board of Commissioners values feedback, questions, and concerns from our constituents. The public comment period is....



### Questions?

Contact us at [general.inbox@lwwsd.org](mailto:general.inbox@lwwsd.org) or 360-734-9224

### Our Meetings

Regular Meetings of the Board of Commissioners are held on the second Wednesday of each month at 6:30 pm and the last Wednesday of each month at 8:00 am.





## LAKE WHATCOM WATER AND SEWER DISTRICT

1220 Lakeway Drive  
Bellingham, WA 98229

### REGULAR MEETING OF THE BOARD OF COMMISSIONERS

## AGENDA

*January 10, 2024*

6:30 p.m. – Regular Session


1. CALL TO ORDER
2. OATH OF OFFICE
  - A. Board of Commissioners Position Nos. 2 and 5
3. ROLL CALL
4. PUBLIC COMMENT OPPORTUNITY

*At this time, members of the public may address the Board of Commissioners. Please state your name and address prior to making comments, and limit your comments to three minutes. For the sake of time, each public comment period will be limited to 45 minutes.*
5. ADDITIONS, DELETIONS, OR CHANGES TO THE AGENDA
6. CONSENT AGENDA
7. SPECIFIC ITEMS OF BUSINESS
  - A. Election of Officers
  - B. Appointment of Investment Committee Representatives
  - C. Appointment of Whatcom County Council of Governments and Lake Whatcom Management Program Policy Group Representatives
  - D. Division 7 Reservoir Replacement Project Hazard Mitigation Grant No. D24-016 Amendment No. 1 Approval
  - E. Division 7 Reservoir Replacement Project Public Works Board Loan Agreement No. PC24-96103-041
8. OTHER BUSINESS
9. STAFF REPORTS
  - A. General Manager
10. PUBLIC COMMENT OPPORTUNITY
11. ADJOURNMENT



**AGENDA  
BILL  
Item 2.A**

**Oath of Office—Board of  
Commissioners Position Nos.  
2 and 5**

DATE SUBMITTED:	December 5, 2023	MEETING DATE:	January 10, 2024
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL			
ATTACHED DOCUMENTS	1. None		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

The District operates under the authority of [Revised Code of Washington \(RCW\) Title 57](#), Water-Sewer Districts. In accordance with [RCW 57.12.030](#), District commissioner terms of office are six years.

During the November 2023 general election, two District board of commissioner positions (Position Nos. 2 and 5) were filled for full six-year terms expiring December 31, 2029). Following are the individuals elected to each position:

- Position No. 2—Todd Citron
- Position No. 5—John Carter

Newly elected officials are required to take an oath of office, which is typically completed at the first meeting of the year of their term.

I, \_\_\_\_\_, do solemnly swear that I will support the Constitution of the United States and the Constitution and laws of the State of Washington, and that I will faithfully and impartially perform and discharge the duties of the office of commissioner of the Lake Whatcom Water and Sewer District in and for the County of Whatcom, State of Washington, according to the law and the best of my ability.

**FISCAL IMPACT**

No fiscal impact is anticipated.

**APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

Commissioner oaths of office support all ten EUM attributes at various levels.

**RECOMMENDED BOARD ACTION**

Staff recommends the oath of office be administered for Board of Commissioners  
Position Nos. 2 and 5 per statute.

**PROPOSED MOTION**

Not applicable.



**AGENDA  
BILL  
Item 6**

**Consent Agenda**

DATE SUBMITTED:	January 4, 2024	MEETING DATE:	January 10, 2024
TO: BOARD OF COMMISSIONERS	FROM: Rachael Hope		
GENERAL MANAGER APPROVAL	<i>[Signature]</i>		
ATTACHED DOCUMENTS	1. See below		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**\*\*TO BE UPDATED 01.10.2024\*\***

**BACKGROUND / EXPLANATION OF IMPACT**

- Minutes for the 12.13.23 Special Meeting
- Minutes for the 12.13.23 Regular Board Meeting
- Payroll for Pay Period #26 (12.09.2023 through 12.22.2023) totaling \$49,147.37
- Benefits for Pay Period #26 totaling \$52,907.29
- Accounts Payable Vouchers totaling \$118,699.27
- Payroll for Pay Period #1 (12.23.2023 through 01.05.2024) total to be added
- Benefits for Pay Period #1 total to be added
- Accounts Payable Vouchers total to be added

**FISCAL IMPACT**

Fiscal impact is as indicated in the payroll/benefits/accounts payable quantities defined above. All costs are within the Board-approved 2023 Budget.

**RECOMMENDED BOARD ACTION**

Staff recommends the Board approve the Consent Agenda.

**PROPOSED MOTION**

A recommended motion is:

“I move to approve the Consent Agenda as presented.”



LAKE WHATCOM WATER AND SEWER DISTRICT  
1220 Lakeway Drive  
Bellingham, WA 98229

## REGULAR SESSION OF THE BOARD OF COMMISSIONERS

# Minutes

*December 13, 2023*

Board President Todd Citron called the Regular Session to order at 6:30 p.m.

**Attendees:** Commissioner Todd Citron                      General Manager Justin Clary  
                  Commissioner Bruce Ford                      Engineering Manager Greg Nicoll  
                  Commissioner Jeff Knakal                      Finance Manager Jenny Signs  
                  Commissioner David Holland                      Operations Manager Jason Dahlstrom

No public were in attendance.

### Oaths of Office

Following their prior appointment by the Board, Commissioners Jeff Knakal and David Holland were elected to fill their positions for the remainder of their six-year terms expiring December 31, 2027. Both Commissioners were sworn into office.

### Consent Agenda

#### Action Taken

Holland moved, Knakal seconded, approval of:

- Minutes for the 11.29.2023 Regular Board Meeting
- Payroll for Pay Period #25 (11.25.2023 through 12.08.2023) totaling \$48,831.49
- Benefits for Pay Period #25 totaling \$54,936.05
- Accounts Payable Vouchers totaling \$200,245.75

Motion passed.

### 2023-24 Budget Amendment No. 2

Signs explained that the 2023-24 Biennial Budget was adopted at the regularly scheduled meeting on December 6, 2022. After a year-end comprehensive review of the adopted budget, staff identified one item requiring amendment to reflect the operations of the District more accurately. Phase 2 funding and capital expenditures for the Division 7 Reservoir Replacement Project were originally budgeted in the fiscal year 2023 of the 2023-2024 Biennial Budget. The purpose of this amendment is to budget for those projected revenues and expenditures in the 2024 fiscal year of the biennial budget when it is anticipated the District will start construction and begin requesting FEMA reimbursement of those expenditures.

### **Action Taken**

**Knakal moved, Holland seconded, to approve Amendment No. 2 to the 2023 -2024 Biennial Budget as presented. Motion passed.**

### **Division 7 Reservoir Replacement Project Professional Services Agreement Amendment No. 4**

Clary recalled that following review of statements of qualifications submitted by several engineering firms, the District selected and executed a professional services agreement with Wilson Engineering LLC for design, permitting, easement acquisition, and construction bidding services associated with the Division 7 Reservoir Replacement Project on December 20, 2021.

The District has subsequently executed three amendments to original agreement to address topics including increasing the budget following award of a FEMA Hazard Mitigation Grant, adjustment of the performance period, and various permitting, equipment, and design challenges. Following Wilson's completion of the final design plan set and bid package and in advance of scheduled advertisement for construction bids, Amendment No. 4 was presented to the board for approval. This amendment was developed to extend the period of performance throughout the construction schedule and to fund Wilson services associated with construction assistance. Discussion followed.

### **Action Taken**

**Knakal moved, Ford seconded, to authorize the General Manager execute Amendment No. 4 to the Professional Services Agreement with Wilson Engineering, LLC for the Division 7 Reservoir Replacement Project as presented. Motion passed.**

### **2024 Non-represented Staff Cost-of-Living-Adjustment**

Clary explained that traditionally non-represented employees have received the same annual cost-of living adjustment (COLA) as the represented (union) employees. Non-union employees include the General Manager, District Engineer/Engineering Manager, Finance Manager/Treasurer, Operations & Maintenance Manager, and Administrative Assistant. For 2024, represented employees' COLA will be 3%, per the current collective bargaining agreement between AFSCME and the District. In addition, per the CBA represented staff will receive a one-time payment of \$500 for the October 2022-October 2023 Consumer Price Index for All Urban Consumers (CPI-U) in the Seattle area exceeding 3.5 % and an additional \$500 one-time payment for the CPI-U exceeding 4%. The one-time payments will be provided in the first paycheck of 2024. Recognizing significant inflation over the past year, Clary proposed that the same COLA and one-time payments contractually required or represented employees be provided to non-represented employees, as well.

### **Action Taken**

**Knakal moved, Holland seconded, to approve a salary adjustment for all non-represented District staff, excluding the general manager, that is equal to an increase of 3% and effective January 1, 2024, as well as two one-time \$500 payments to those staff consistent with payments provided to represented staff. Motion passed.**

### **General Manager's Report**

Clary updated the Board on several topics, including updates on the Aquatic Invasive Species program discussed at the most recent Lake Whatcom Management Program Policy Group meeting and award of a FEMA Hazard Mitigation Grant for chlorine contact basin replacement at the Sudden Valley Water Treatment Plant.

Dahlstrom provided the Board with an update regarding a partially blocked sewer pipe near Rose Ridge Loop in Sudden Valley. Discussion followed.

With no further business, Citron adjourned the Regular Session at 7:09 p.m.

\_\_\_\_\_  
Board President, Todd Citron

Attest: \_\_\_\_\_  
Recording Secretary, Rachael Hope

Minutes approved by motion at  Regular  Special Board Meeting on \_\_\_\_\_





LAKE WHATCOM WATER AND SEWER DISTRICT

1220 Lakeway Drive  
Bellingham, WA 98229

SPECIAL SESSION OF THE BOARD OF COMMISSIONERS

Minutes

*December 13, 2023*

Board President Todd Citron called the Special Session to order at 6:15 p.m.

**Attendees:** Commissioner Todd Citron  
Commissioner Bruce Ford  
Commissioner Jeff Knakal  
Commissioner David Holland  
General Manager Justin Clary

**Executive Session Per RCW 42.30.110(1)(g): To review the performance of a public employee**

Citron recessed the Regular Session to Executive Session at 6:16 p.m. It was estimated that the Executive Session would take about 15 minutes and end at 6:30 p.m. The purpose of the Executive Session was to review the performance of a public employee (General Manager performance evaluation). Citron recessed the Executive Session and reconvened the Special Meeting at 6:23 p.m.

**Action Taken**

**Knakal moved, Holland seconded, to increase Justin Clary's annual salary to \$178,220.00 and the District match to Justin Clary's Washington State Deferred Compensation Plan to the equivalent of 15 service years as defined in Section 6.2 of the District's Personnel Policy Manual, both of which changes shall be effective January 1, 2024. Motion passed.**

With no further business, Citron adjourned the Special Session at 6:25 p.m.

\_\_\_\_\_  
Board President, Todd Citron

Attest: \_\_\_\_\_  
Recording Secretary, Rachael Hope

Minutes approved by motion at  Regular  Special Board Meeting on \_\_\_\_\_  
Date Minutes Approved

# CHECK REGISTER

# PAYROLL

Lake Whatcom W-S District

Time: 09:06:28 Date: 12/27/2023

12/28/2023 To: 12/28/2023

Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
3840	12/28/2023	Payroll	5	EFT		233.00	12/09/2023 - 12/22/2023 PR 26
3841	12/28/2023	Payroll	5	EFT		349.48	12/09/2023 - 12/22/2023 PR 26
3842	12/28/2023	Payroll	5	EFT		3,968.50	12/09/2023 - 12/22/2023 PR 26
3843	12/28/2023	Payroll	5	EFT		2,689.34	12/09/2023 - 12/22/2023 PR 26
3844	12/28/2023	Payroll	5	EFT		3,156.09	12/09/2023 - 12/22/2023 PR 26
3846	12/28/2023	Payroll	5	EFT		2,848.35	12/09/2023 - 12/22/2023 PR 26
3848	12/28/2023	Payroll	5	EFT		1,976.28	12/09/2023 - 12/22/2023 PR 26
3849	12/28/2023	Payroll	5	EFT		3,083.00	12/09/2023 - 12/22/2023 PR 26
3850	12/28/2023	Payroll	5	EFT		351.71	12/09/2023 - 12/22/2023 PR 26
3851	12/28/2023	Payroll	5	EFT		2,380.19	12/09/2023 - 12/22/2023 PR 26
3852	12/28/2023	Payroll	5	EFT		2,220.53	12/09/2023 - 12/22/2023 PR 26
3853	12/28/2023	Payroll	5	EFT		349.48	12/09/2023 - 12/22/2023 PR 26
3854	12/28/2023	Payroll	5	EFT		2,462.40	12/09/2023 - 12/22/2023 PR 26
3855	12/28/2023	Payroll	5	EFT		2,569.31	12/09/2023 - 12/22/2023 PR 26
3856	12/28/2023	Payroll	5	EFT		3,089.25	12/09/2023 - 12/22/2023 PR 26
3857	12/28/2023	Payroll	5	EFT		1,369.45	12/09/2023 - 12/22/2023 PR 26
3858	12/28/2023	Payroll	5	EFT		2,589.50	12/09/2023 - 12/22/2023 PR 26
3859	12/28/2023	Payroll	5	EFT		4,024.98	12/09/2023 - 12/22/2023 PR 26
3860	12/28/2023	Payroll	5	EFT		3,187.07	12/09/2023 - 12/22/2023 PR 26
3861	12/28/2023	Payroll	5	EFT		2,680.98	12/09/2023 - 12/22/2023 PR 26
3839	12/28/2023	Payroll	5	14806		1,731.19	12/09/2023 - 12/22/2023 PR 26
3845	12/28/2023	Payroll	5	14807		349.48	11/1/2023, 11/8/2023 & 11/29/2023
3847	12/28/2023	Payroll	5	14808		1,487.81	12/09/2023 - 12/22/2023 PR 26
						13,218.85	
						35,928.52	

49,147.37 Payroll: 49,147.37

I do hereby certify, under penalty of perjury, that the above is an unpaid, just, and due obligation as described herein, and that I am authorized to certify this claim.

Sign  Date 12-27-23  
 General Manager, Justin Clary

Board Authorization - The duly elected board for this district has reviewed the claims listed and approved the payment by motion at the meeting listed below:

\_\_\_\_\_  
 Board President, Todd Citron

Attest : \_\_\_\_\_  
 Recording Secretary, Rachael Hope

Approved by motion at \_\_\_\_\_ Regular \_\_\_\_\_ Special Board Meeting on \_\_\_\_\_  
 Date Approved

# BENEFITS

## CHECK REGISTER

Lake Whatcom W-S District

Time: 09:16:16 Date: 12/27/2023

12/28/2023 To: 12/28/2023

Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
3862	12/28/2023	Payroll	5	EFT	DEPARTMENT OF RETIREMENT SYSTEMS	5,383.50	Pay Cycle(s) 12/28/2023 To 12/28/2023 - DCP; Pay Cycle(s) 12/28/2023 To 12/28/2023 - ROTH DCP
3863	12/28/2023	Payroll	5	EFT	WA ST PUBLIC EMP RET PLAN 2	8,498.70	Pay Cycle(s) 12/28/2023 To 12/28/2023 - PERS 2
3864	12/28/2023	Payroll	5	EFT	WA ST PUBLIC EMP RET PLAN 3	3,218.36	Pay Cycle(s) 12/28/2023 To 12/28/2023 - PERS 3
3865	12/28/2023	Payroll	5	EFT	WA ST SUPPORT ENFORCEMENT REGISTRY	932.26	Pay Cycle(s) 12/28/2023 To 12/28/2023 - SUP ENF
3870	12/28/2023	Payroll	5	EFT	UNITED STATES TREASURY	15,421.79	941 Deposit for Pay Cycle(s) 12/28/2023 - 12/28/2023
3866	12/28/2023	Payroll	5	14809	AFLAC	354.85	Pay Cycle(s) 12/28/2023 To 12/28/2023 - AFLAC PRE-TAX; Pay Cycle(s) 12/28/2023 To 12/28/2023 - AFLAC POST-TAX
3867	12/28/2023	Payroll	5	14810	AFSCME LOCAL	356.07	Pay Cycle(s) 12/28/2023 To 12/28/2023 - UNION DUES; Pay Cycle(s) 12/28/2023 To 12/28/2023 - UNION FUND
3868	12/28/2023	Payroll	5	14811	HRA VEBA TRUST (PAYEE)	590.00	Pay Cycle(s) 12/28/2023 To 12/28/2023 - VEBA
3869	12/28/2023	Payroll	5	14812	WA ST HEALTH CARE AUTHORITY	18,151.76	Pay Cycle(s) 12/28/2023 To 12/28/2023 - PEBB MEDICAL; Pay Cycle(s) 12/28/2023 To 12/28/2023 - PEBB ADD LTD; Pay Cycle(s) 12/28/2023 To 12/28/2023 - PEBB SMK Surcharge; Pay Cycle(s) 12/28/2023 To 12/28/2023
						37,919.70	
						14,987.59	
						52,907.29	Payroll: 52,907.29

**CHECK REGISTER**

**BENEFITS**

Lake Whatcom W-S District

Time: 09:16:16 Date: 12/27/2023

12/28/2023 To: 12/28/2023

Page: 2

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
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I do hereby certify, under penalty of perjury, that the above is an unpaid, just, and due obligation as described herein, and that I am authorized to certify this claim.

Sign  Date 12-27-23  
General Manager, Justin Clary

Board Authorization - The duly elected board for this district has reviewed the claims listed and approved the payment by motion at the meeting listed below:

\_\_\_\_\_  
Board President, Todd Citron

Attest : \_\_\_\_\_  
Recording Secretary, Rachael Hope

Approved by motion at \_\_\_\_\_ Regular \_\_\_\_\_ Special Board Meeting on \_\_\_\_\_  
Date Approved

**ACCOUNTS  
PAYABLE**

**CHECK REGISTER**

Lake Whatcom W-S District

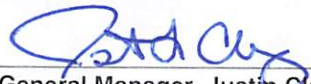
Time: 14:42:53 Date: 12/27/2023

12/27/2023 To: 12/27/2023

Page: 1

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
3872	12/27/2023	Claims	5	EFT	US BANK - CC	5,616.72	November/December Statement Charges
3873	12/27/2023	Claims	5	14813	AMAZON CAPITAL SERVICE	280.33	
3874	12/27/2023	Claims	5	14814	ARG INDUSTRIAL	375.25	
3875	12/27/2023	Claims	5	14815	SPENCER ARIES	89.08	
3876	12/27/2023	Claims	5	14816	CITY OF BELLINGHAM - SEWER	102,489.92	
3877	12/27/2023	Claims	5	14817	COMCAST - MORNING BEACH	161.57	
3878	12/27/2023	Claims	5	14818	DATABAR	1,855.47	
3879	12/27/2023	Claims	5	14819	FEDEX	447.99	
3880	12/27/2023	Claims	5	14820	GCP WW HOLDCO LLC	23.94	
3881	12/27/2023	Claims	5	14821	GONE DIVING	65.28	
3882	12/27/2023	Claims	5	14822	HD FOWLER COMPANY	775.70	
3883	12/27/2023	Claims	5	14823	KELLEY CONNECT	649.99	
3884	12/27/2023	Claims	5	14824	PUGET SOUND ENERGY	2,782.60	
3885	12/27/2023	Claims	5	14825	SUDDEN VALLEY COMM. ASSOC	490.00	
3886	12/27/2023	Claims	5	14826	VERIZON WIRELESS	2,595.43	
						6,554.39	
401 Water Fund						112,144.88	
402 Sewer Fund							
						<u>118,699.27</u>	Claims: 118,699.27

I do hereby certify, under penalty of perjury, that the above is an unpaid, just, and due obligation as described herein, and that I am authorized to certify this claim.

Sign  Date 11/2/2024  
General Manager, Justin Clary

Board Authorization - The duly elected board for this district has reviewed the claims listed and approved the payment by motion at the meeting listed below:

\_\_\_\_\_  
Board President, Todd Citron

Attest : \_\_\_\_\_  
Recording Secretary, Rachael Hope

Approved by motion at \_\_\_\_\_ Regular \_\_\_\_\_ Special Board Meeting on \_\_\_\_\_  
Date Approved



**AGENDA  
BILL  
Item 7.A**

**Election of Board Officers**

DATE SUBMITTED:	December 5, 2023	MEETING DATE:	January 10, 2024
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL	<i>Justin Clary</i>		
ATTACHED DOCUMENTS	1. None		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

The District operates under the authority of [Revised Code of Washington \(RCW\) Title 57](#), Water-Sewer Districts. Under [RCW 57.12.010](#), Commissioners-President and Secretary-Compensation, “the board shall annually elect one of its members as president and another as secretary.” The District has historically fulfilled this statutory obligation during its first meeting of the calendar year.

**FISCAL IMPACT**

No fiscal impact is anticipated.

**APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

Election of board officers supports all ten EUM attributes at various levels.

**RECOMMENDED BOARD ACTION**

Staff recommends that the Board appoint a president and a secretary from amongst its membership.

**PROPOSED MOTION**


Recommended motions are:

“I move to appoint Commissioner \_\_\_\_\_ to serve as District Board president for the 2024 calendar year.”

“I move to appoint Commissioner \_\_\_\_\_ to serve as District Board secretary for the 2024 calendar year.”



**AGENDA**                      **Appointment of Board**  
**BILL**                      **Representatives to the District's**  
**Item 7.B**                      **Investment Committee**

DATE SUBMITTED:	December 5, 2023	MEETING DATE:	January 10, 2024
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL			
ATTACHED DOCUMENTS	1. None		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

[Chapter 2.14 of the District's administrative code](#) establishes an Investment Committee, which is comprised of the finance manager/treasurer, general manager, and two commissioners. Duties of the committee include, at a minimum, quarterly review of the District's investment portfolio and rate structure (Chapter 2.4) and annual review of the District's investment policy (Chapter 2.14).

**FISCAL IMPACT**

No fiscal impact is anticipated.

**APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

Financial Viability

**RECOMMENDED BOARD ACTION**

Staff recommends that the Board appoint two representatives from amongst its membership to serve on the District's Investment Committee.

**PROPOSED MOTION**

A recommended motion is:

"I move to appoint Commissioner \_\_\_\_\_ and Commissioner \_\_\_\_\_ to serve as the Board's representatives on the District's Investment Committee for the 2024 calendar year."



**AGENDA  
BILL  
Item 7.C**

**Appointment of Board  
Representatives to the  
Whatcom County Council of  
Governments & Lake Whatcom  
Management Program Policy Group**

DATE SUBMITTED:	December 5, 2023	MEETING DATE:	January 10, 2024
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL			
ATTACHED DOCUMENTS	1. None		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

The District annually appoints a representative to serve on the Whatcom County Council of Governments and a representative to serve on the Lake Whatcom Management Program Policy Group.

**FISCAL IMPACT**

No fiscal impact is anticipated.

**APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

- Community Sustainability
- Water Resource Sustainability
- Stakeholder Understanding and Support

**RECOMMENDED BOARD ACTION**

Staff recommends that the Board appoint representatives from amongst its membership to serve on the Whatcom County Council of Governments and the Lake Whatcom Management Program Policy Group.

**PROPOSED MOTION**

Recommended motions are:

“I move to appoint Commissioner \_\_\_\_\_ to serve as the District’s representative on the Whatcom County Council of Governments for the 2024 calendar year.”

“I move to appoint Commissioner \_\_\_\_\_ to serve as the District’s representative on the Lake Whatcom Management Program Policy Group for the 2024 calendar year.”





**AGENDA  
BILL  
Item 7.D**

**Amendment No. 1 to Hazard  
Mitigation Grant Agreement  
for FEMA Funding Supporting  
the Division 7 Reservoir  
Replacement Project**

DATE SUBMITTED:	January 2, 2024	MEETING DATE:	January 10, 2023
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL			
ATTACHED DOCUMENTS	1. FEMA Phase 2 Award Letter dated November 3, 2023		
	2. Amendment No. 1 to the Hazard Mitigation Grant Agreement with Washington State Military Department		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

A structural analysis of the Lake Whatcom Water and Sewer District Division 7 Water Reservoir found significant deficiencies in its ability to meet existing earthquake code requirements (BHC report, December 2016). The 2017 Water System Plan also analyzed the capacity of the Division 7 reservoir and found it to be significantly oversized. Technical memoranda prepared by Wilson Engineering LLC (dated February 8, 2018 and December 28, 2020) provided alternatives analyses that investigated several options associated with future use of the reservoir or replacement. The recommended alternative replaces the existing welded steel 1-million gallon Division 7 reservoir with two smaller concrete 237,900 gallon reservoirs.

In 2018, the District submitted a FEMA Hazard Mitigation Grant application to replace the Division 7 Reservoir with two new reservoirs constructed to meet seismic standards, and to implement ShakeAlert (earthquake early warning system) on the new reservoirs. The grant application was developed in conjunction with Washington State Emergency Management Division (WA-EMD) of the Washington State Military Department and the Federal Emergency Management Agency (FEMA) as a hazard mitigation project. The cost sharing is as follows: FEMA 75% (\$1,710,750), WA-EMD 12.5% (\$285,125), and Lake Whatcom Water and Sewer District 12.5% (\$285,125).

The project has been split into two phases: Phase 1 – Design/Permitting and Phase 2 – Construction. Phase 1 is complete, enabling Phase 2 (construction) to proceed during the summer of 2024. The Board authorized execution of a grant agreement (D22-018) for Phase 1 work during a regularly scheduled meeting on February 9, 2022. WA-EMD

revised its standard grant agreement necessitating replacement of Agreement No. D22-018 with a new agreement. The new agreement (D24-016) was approved by the Board during a regularly scheduled meeting held on November 9, 2023, and provides for continued receipt of Phase 1 funding, which is administered through the Washington State Military Department (\$393,709.75 in federal/state funding with a District match of \$56,244.25). Since execution of Agreement No. D24-016, FEMA has obligated Phase 2 funds, allowing for amending the grant agreement. Attached is Amendment No. 1 to HMG Agreement No. D24-016 to provide federal funding for construction. Following is an overall breakdown of project funding:

	<b>Design</b>	<b>Construction</b>	<b>Total</b>
Estimated Cost	\$ 355,699.70	\$ 2,702,000.00	\$ 3,047,904.00
<b>Funding</b>			
FEMA	\$ 337,465.50	\$ 1,373,293.50	\$ 1,710,759.00
WA-EMD	\$ 56,244.25	\$ 228,880.75	\$ 285,125.00
LWWSD Funds	\$ 56,244.25	\$ 228,880.75	\$ 285,125.00
Federal Earmark	\$ -	\$ 220,000.00	\$ 220,000.00
PWB Loan	\$ -	\$ 800,000.00	\$ 800,000.00
Balance	\$ 94,254.30	\$ 149,055.00	\$ 243,309.30

**FISCAL IMPACT**

The Water Utility System Reinvestment Plan defined within the 2023-24 Budget accommodates the required federal match.

**APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

Infrastructure Strategy and Performance  
 Community Sustainability

**RECOMMENDED BOARD ACTION**

Staff recommends that the Board authorize the General Manager to execute the amendment to the Hazard Mitigation Grant agreement with the Washington Military Department.

**PROPOSED MOTION**

Recommended motion is:

“I move to authorize the general manager to execute Amendment No. 1 to Hazard Mitigation Grant Agreement No. D24-016 with the Washington State Military Department to enable receipt of federal funds for construction of the Division 7 Reservoir Replacement Project as presented.”



**FEMA**

November 3, 2023

Stacey McClain, Alt. Governor’s Authorized Representative  
Emergency Management Division  
Washington Military Department  
Building 20, MS: TA-20  
20 Aviation Drive  
Camp Murray, Washington 98430-5112

RE: Hazard Mitigation Grant Program (HMGP)  
DR-4309-WA  
Approval of 4309-18-R: Lake Whatcom Water and Sewer District Seismic Retrofit – PhaseII

Dear Mr. McClain,

The United States Department of Homeland Security’s Federal Emergency Management Agency Region 10 has approved and obligated funding for Lake Whatcom Water and Sewer District Seismic Retrofit – PhaseII project submitted under HMGP for Disaster DR-4309-WA. This project will fund seismic upgrades in the Lake Whatcom Water and Sewer District by upgrading the Division 7 water reservoir to two smaller reservoirs of comparable total volume. The Shake Alert Earthquake Early Warning System will be integrated into the existing control system and municipal facilities. Phase II of this project will be to construct the reservoirs and seismic valves and the implementation of the Shake Alert System into the existing controls.

Phase II Total Project Cost:	Phase II Federal Share:	Phase II Non-Federal Share:
\$2,570,876.00	\$1,373,293.50	\$1,197,582.50

FEMA approved the project and obligated funds on November 3, 2023; obligation paperwork is enclosed. On March 15, 2024, the Period of Performance for DR-4309-WA ends. Please note that FEMA does not specify a sub-award Period of Performance. Once the Lake Whatcom Water and Sewer District notifies the State that a project is complete and performs the Final Site Inspection, the State must submit closeout documentation to Region 10 within 90 days. Please note this project must comply with Code of Federal Regulations Title 2, Part 200 reporting requirements at the time of closeout.

FEMA reviewed this project per the National Environmental Policy Act, related laws, and Executive Orders on August 29, 2023. A copy of the CATEX and Record Environmental Consideration is enclosed.

Mr. McClain  
November 3, 2023  
Page 2


Project approval is subject to compliance with the following sets of conditions attached to or enclosed with this letter:

- Environmental conditions pertinent to this project
- Standard Hazard Mitigation Grant Program administrative provisions

For further assistance, please contact the Region 10 Hazard Mitigation Assistance Branch at FEMA-R10-MIT-HMGP@fema.dhs.gov.

Sincerely,

HOLLY A  
BERGMAN

 Digitally signed by HOLLY A  
BERGMAN  
Date: 2023.11.06 09:48:24 -05'00'

Holly Bergman, HMGP Branch Chief  
Mitigation Division

Enclosures

cc: Tim Cook, State Hazard Mitigation Officer  
Stacey Norman, Disaster Grants Branch Chief

JR:vl

***Standard Administrative Provisions for Hazard Mitigation Grant Program (HMGP)***  
*FEMA Region 10 – updated July 27, 2016*

- The recipient agrees that all use of funds under this subaward will be in accordance with the *Hazard Mitigation Assistance Unified Guidance* in effect at the time of the Disaster Declaration, relevant HMGP guidance and policy memos and directives, as well as the HMGP regulations in 44 CFR 206.
- The recipient may receive payment in advance using the HHS Payment Management System (PMS) formerly known as SmartLink. The recipient may advance portions of the approved Federal share to the subrecipient provided the recipients maintain procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and their disbursement to the subrecipient. Subrecipients must comply with the same payment requirement as the recipient and must comply with the requirements specified in the recipient's subaward agreement.
- The recipient shall follow regulations found in Title 2 Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and the FEMA/State/Tribe Agreement in effect for the subject Disaster Declaration.
- The Federal Funding Accountability and Transparency Act (FFATA) of 2006 (2 CFR Part 170) requires recipients to report certain information about themselves and their first-tier subrecipients for each Federal award of \$25,000 or more awarded on or after October 1, 2010.
- The recipient must obtain prior approval from Region 10 before implementing changes to the approved project Scope of Work (SOW). FEMA must approve, in advance, a change in the SOW regardless of the budget implications. Transfer of funds between total direct cost categories in the approved budget shall receive the prior approval of FEMA when such cumulative transfers among those direct cost categories exceed ten percent of the total budget. The recipient must fully document cost overrun requests; the project must remain cost-effective, and funds must be available within the HMGP ceiling for said disaster.
- The recipient must notify their assigned Regional Hazard Mitigation Assistance Specialist as soon as significant developments become known, such as delays or adverse conditions, that might raise costs or delay completion, or favorable conditions allowing earlier completion or substantially lower cost (for reallocation of funding).
- The recipient shall submit the Federal Financial Report (FFR, SF-425) to Region 10 Grant Programs Division within 30 days of the end of the first Federal quarter following the Award Letter. The recipient shall submit quarterly FFRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and October 30. The recipient must submit a report for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. Future awards and fund drawdowns withholdings may occur if these reports are delinquent.
- The recipient shall submit Quarterly Performance Reports (QPR) in Excel format to the Regional HMA Specialist within 30 days of the end of each quarter. The Recipient shall submit quarterly PPRs thereafter until the grant ends. Reports are due on January 30, April 30, July 30, and

October 30. QPRs shall report the name, completion status, quarterly expenditures, and payment-to-date of each approved activity/subaward award under the Grant Award.

- Unless otherwise approved by Region 10, the recipient must submit a closeout package with all financial, performance, and other reports and required documentation within **180 days** after subrecipient's notice of completion of the project, or expiration or termination of the project/subgrant. The recipient must submit closeout documentation within the quarter following payment of the final reimbursement to the subrecipient.
- For closeout of this project, the Governor's Authorized Representative (GAR) or Tribal Authorized Representative (TAR) shall send a letter of request to the Region 10 Mitigation Division Director, to close the project programmatically and financially. The letter will include the following:
  1. the date work on the project was fully completed, or for planning subawards, the date and copy of FEMA approval of the new or updated plan;
  2. the date and a copy of the recipient's final site inspection for the project;
  3. the final total project cost and Federal share, any cost underrun, or overrun, including a Final Cost Line Item budget, to enable any closeout deobligation or obligation of additional funds in NEMIS;
  4. certification that reported costs were incurred in the performance of eligible work, and that the approved work was completed, or if not, an explanation as to the final status of the project and why the project was not completed;
  5. confirmation that the mitigation measure is in compliance with the provisions of the FEMA/State/Tribe Agreement and this approval letter;
  6. a memo from the subrecipient addressing how each required environmental and special programmatic condition was met (including attachment of any required documentation);
  7. submittal of all required documentation relative to the specific project type, e.g. acquisition/demolition, or elevation, including all necessary data to close the project in the Property Site Inventory in FEMA's Hazard Mitigation Assistance grant systems,
- By acceptance of this subaward the recipient and subrecipient agree to abide by all laws and regulations required under the HMGP as outlined in 44 CFR 206.432 –.440, 44 CFR 80, 44 CFR 201, the Grants Management requirements contained in 44 CFR 13 and/or 2 CFR 200, and all applicable Federal, State, Tribal, or Local laws.

**Project-Specific Programmatic Conditions of Approval**

**Environmental Conditions of Approval: August 20, 2023**

**Project:** 4309-18-R: Lake Whatcom Water and Sewer District Seismic Retrofit – PhaseII

- This review does not address all Federal, State, and local requirements. Acceptance of Federal funding requires recipient to comply with all Federal, State, and local laws. Failure to obtain all appropriate Federal, State, and local environmental permits and clearances may jeopardize Federal funding.
- Sub-recipient is responsible for complying with Required Conditions Resulting from Environmental Review identified in the Environmental Report attached to this award package.
- Any change to the approved Scope of Work will require re-evaluation for compliance with the National Environmental Policy Act (NEPA) and other laws and Executive Orders.
- The sub-recipient shall dispose of all demolition/reservoir dismantled debris at an appropriately approved, authorized, licensed, or permitted facility.
- No debris shall be temporarily staged or disposed of in a floodplain and/or a wetland.

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4309-0018-WA(R)(2)

Title: Lake Whatcom Water Sewer Reservoir Phase 2

NEPA DETERMINATION

Non Compliant Flag: No  
 EA Draft Date: EA Final Date:  
 EA Public Notice Date: EA Fonsi Level: CATEX  
 EIS Notice of Intent EIS ROD Date:

**Comment** Lake Whatcom Water and Sewer District (LWWSD) is proposing seismic resiliency project for the Sudden Valley neighborhood (Whatcom County, WA). This project includes the construction of two new reservoirs built to current seismic specs and the demolition and removal on the out-of-date at-risk existing reservoir.

The final designs and preparatory work was completed during the previous Phase 1 stage, and the project is now ready for construction. The construction phase (Phase 2) has 3 major elements. 1) Site preparation will clear 46 trees from 0.4 acres, with up to 12 adjacent hazard trees. Tree falling will occur in the fall, and the remainder of the grubbing and site grading (2,550 CY) and utility trenching (450CY) will occur in the summer (June 1 to Sep 30) as per county code. 2) Construction of two 44ft diameter reservoirs (500,000 gal each) will built at the proposed location. Integration of seismic automatic transfer valves, and SCADA (Localized seismic monitoring) and ShakeAlert systems (integration into the USGS early warning system). 3) Once the new reservoirs are connected and integrated into the existing water system, the older reservoir will be demolished, and the structure footprint will be reclaimed. The new reservoirs are located on the ridge between Lake Louise and Camp Firwood in Sudden Valley, WA [48.711158, -122.318862].

- jparr2 - 08/29/2023 16:54:51 GMT

CATEX CATEGORIES

Catex Category Code	Description	Selected
*n7	(*n7) Federal Assistance for Structure and Facility Upgrades. Federal assistance for the reconstruction, elevation, retrofitting, upgrading to current codes and standards, and improvements of pre-existing facilities in existing developed areas with substantially completed infrastructure, when the immediate project area has already been disturbed, and when those actions do not alter basic functions, do not exceed capacity of other system components, or modify intended land use. This category does not include actions within or affecting streams or stream banks or actions seaward of the limit of moderate wave action (or V zone when the limit of moderate wave action has not been identified).	Yes
*n8	(*n8) Federal Assistance for New Construction Activities of Less Than One Acre in Undisturbed or Undeveloped Areas. Federal assistance for new construction and associated site preparation activities in undisturbed or undeveloped areas when the activities comprise less than one acre and follow best management practices to control noise, water, and air pollution. This category does not apply to new construction in undisturbed or undeveloped floodplains, wetlands, or seaward of the limit of moderate wave action (or V zone when the limit of moderate wave action has not been identified). This CATEX covers the range of activities typically necessary for new construction, including field work (e.g. borings, site inspection) and temporary staging and use of construction equipment and vehicles.	Yes

EXTRAORDINARY

Extraordinary Circumstance Code	Description	Selected ?
	No Extraordinary Circumstances were selected	



## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4309-0018-WA(R)(2)

Title: Lake Whatcom Water Sewer Reservoir Phase 2

## ENVIRONMENTAL LAW / EXECUTIVE ORDER

Environmental Law/ Executive Order	Status	Description	Comment
Clean Air Act (CAA)	Completed	Project will not result in permanent air emissions - Review concluded	
Clean Water Act (CWA)	Completed	Project would not affect any water of the U.S. - Review concluded	
Coastal Zone Management Act (CZMA)	Completed	Project is located in a coastal zone area and/or affects the coastal zone	As per the letter from 4/23/2021, Washington Dept of Ecology no longer requires FEMA to request concurrence for FEMA funded projects that do not require federal permitting or licensing. - jparr2 - 08/29/2023 16:51:52 GMT
	Completed	State administering agency does not require consistency review - Review concluded	
Executive Order 11988 - Floodplains	Completed	No effect on floodplain/flood levels and project outside floodplain - Review concluded	Based on the effective FIRM panel 53073C1700E, dated 1/18/2019, the project is outside the floodplain and has no effect on the floodplain or flood hazards. - jparr2 - 08/29/2023 16:47:13 GMT
Executive Order 11990 - Wetlands	Completed	No effects on wetlands and project outside wetlands - Review concluded	Per review of the USFWS National Wetlands Inventory (NWI) mapper, accessed 3/14/23, the project is not located in a wetland. - jparr2 - 08/29/2023 16:47:33 GMT
Executive Order 12898 - Environmental Justice for Low Income and Minority Populations	Completed	No Low income or minority population in, near or affected by the project - Review concluded	Per the October 2022 FEMA Interim Guidance for FEMA EHP Reviewers, the proposed project type is identified as water storage seismic retrofits (replacement and additional storage) away from any residential property. This project type will not have disproportionately high and/or adverse human health or environmental effects on minority populations and low-income populations. - jparr2 - 08/29/2023 16:47:55 GMT
Endangered Species Act (ESA)	Completed	No listed species and/or designated critical habitat present in areas affected directly or indirectly by the federal action - Review concluded	ESA-listed species will not be susceptible to impacts related to project activities because they do not occur in the action area, there is no suitable habitat present, and/or there is no possibility of effects to species or habitats from the project due to lack of habitat, and no work in water. Therefore, FEMA has determined that this project will have No Effect on ESA-listed species/DCH. - jparr2 - 08/29/2023 16:50:58 GMT
Farmland Protection Policy Act (FPPA)	Completed	Project does not affect designated prime or unique farmland - Review concluded	

## RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

**Project** HMGP-4309-0018-WA(R)(2)

**Title:** Lake Whatcom Water Sewer Reservoir Phase 2

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<b>Environmental Law/ Executive Order</b>	<b>Status</b>	<b>Description</b>	<b>Comment</b>
Migratory Bird Treaty Act (MBTA)	Completed	Project located within a flyway zone	Project area is generally located in the Pacific Flyway. However, given the nature and small scale of the proposed activity at the project location, the potential for migratory bird effects is negligible. - jparr2 - 08/29/2023 16:52:41 GMT
	Completed	Project does not have potential to take migratory birds - Review concluded	
Magnuson-Stevens Fishery Conservation and Management Act (MSA)	Completed	Project located in or near Essential Fish Habitat	Based on proposed work and the location associated with this project, work does not have the potential to have an adverse effect on EFH. - jparr2 - 08/29/2023 16:52:59 GMT
	Completed	Project does not adversely affect Essential Fish Habitat - Review concluded	
National Historic Preservation Act (NHPA)	Completed	Applicable executed Programmatic Agreement (enter date in comments).	The LWWSD sponsored a cultural resources evaluation including archeological survey of the area of potential effects and evaluation of the existing 1971 reservoir. Consultation was completed with the WA State Historic Preservation Office with their concurrence to a No Historic Properties Affected determination on November 16, 2021. Consultation was also completed with several area Tribes, providing them the report for review on July 27, 2021. The Samish Tribe responded on July 29, 2021, with no concerns. Seismic retrofit work on valves and installation of auto shut-off switches at the various facilities meets Programmatic Agreement Tier II Allowances D.1.c. - jparr2 - 08/29/2023 16:48:56 GMT
	Completed	Building or structure 50 years or older or listed on the National Register in the project area and activity not exempt from review	
	Completed	Determination of No Historic Properties Affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded	
	Completed	Project affects undisturbed ground	
	Completed	Project area has potential for presence of archeological resources	

RECORD OF ENVIRONMENTAL CONSIDERATION (REC)

Project HMGP-4309-0018-WA(R)(2)

Title: Lake Whatcom Water Sewer Reservoir Phase 2

Environmental Law/ Executive Order	Status	Description	Comment
	Completed	Determination of no historic properties affected (FEMA finding/SHPO/THPO concurrence attached) - Review concluded	
Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA)	Completed	Review concluded	See condition. - jparr2 - 08/29/2023 16:53:41 GMT
Wild and Scenic Rivers Act (WSR)	Completed	Project is not along and does not affect Wild and Scenic River - Review concluded	

CONDITIONS

Special Conditions required on implementation of Projects:

The Lake Whatcom Water and Sewer District (LWWSD) shall dispose of all demolition debris at an appropriately approved, authorized, licensed, or permitted facility. No debris shall be temporarily staged or disposed of in a floodplain and/or a wetland.

Source of condition: Resource Conservation and Recovery Act, aka Solid Waste Disposal Act (RCRA) Monitoring Required: No

Standard Conditions:

Any change to the approved scope of work will require re-evaluation for compliance with NEPA and other Laws and Executive Orders.

This review does not address all federal, state and local requirements. Acceptance of federal funding requires recipient to comply with all federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize federal funding.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance and if any potential archeological resources are discovered, will immediately cease construction in that area and notify the State and FEMA.

HAZARD MITIGATION GRANT PROGRAM

Obligation

Disaster No	FEMA Project No	Amendment No	State Application ID	Action No	Supplemental No	State	Recipient
4309	18 -R	1	13	2	13	WA	Statewide

Subrecipient: LAKE WHATCOM WATER & SEWER DISTRICT Project Title : Lake Whatcom Water Reservoir Seismic Upgrade - Phase II

Subrecipient FIPS Code: 073-ULVLO

Total Amount Previously Allocated	Total Amount Previously Obligated	Total Amount Pending Obligation	Total Amount Available for New Obligation
\$1,710,750.00	\$1,710,750.00	\$0.00	\$0.00

Project Amount	Recipient Admin Est	Subrecipient Admin Est	Total Obligation	IFMIS Date	IFMIS Status	FY
\$1,373,293.50	\$0.00	\$0.00	\$1,373,293.50	11/03/2023	Accept	2024

**Comments**

Date: 11/03/2023 User Id: TPEROVSK

Comment: DR 4309-18 -R Lake Whatcom Water and Sewer District Seismic Upgrade - Phase II; Fed Share Phase II \$1,373,293.50; Non Fed Share Phase II \$337,465.50

**Authorization**

Preparer Name: TATIANA PEROVSKAYA

Preparation Date: 11/03/2023

HMO Authorization Name: JANE ROCKHOLD

HMO Authorization Date: 11/03/2023

## Washington State Military Department AMENDMENT

1. SUBRECIPIENT NAME/ADDRESS: <b>Lake Whatcom Water &amp; Sewer 1220 Lakeway Drive Bellingham, WA 98229</b>	2. GRANT NUMBER: <b>D24-016</b>	3. AMENDMENT NUMBER: <b>1</b>
4. SUBRECIPIENT CONTACT, PHONE/EMAIL: <b>Rich Munson, 360-734-9224 rich.munson@lwwsd.org</b>	5. DEPARTMENT CONTACT, PHONE/EMAIL: <b>Jennifer Wamboldt 253-512-7334 jennifer.wamboldt@mil.wa.gov</b>	
6. EIN: <b>20-4196340</b>	7. ASSISTANCE LISTINGS # & TITLE: <b>97.039 (HMGP)</b>	8. FEDERAL AWARD ID # (FAIN): <b>DR-4309-18-R</b>

9. FUNDING AUTHORITY:  
**The Washington State Military Department (Department) and the US Department of Homeland Security (DHS)**

10. DESCRIPTION/JUSTIFICATION OF AMENDMENT:  
 This project will improve seismic resiliency in the Lake Whatcom Water and Sewer District by upgrading the Division 7 water reservoir to two smaller reservoirs of comparable total volume. The Shake Alert Earthquake Early Warning System will be integrated into the existing control system and municipal facilities. Phase 1 is to develop design and bid documents. Phase 2 will be to construct the reservoirs and seismic valves and implement the Shake Alert System into existing controls. The amendment is intended to communicate changes in the agreement as a result of FEMA's approval and obligation of funds on November 3, 2023, for Phase 2 construction work. Phase 2 was obligated based on a FEMA site visit on April 27, 2023, submission of 90% engineering deliverables, an updated Scope of Work dated August 23, 2023, and subsequent FEMA Environmental & Historic Review process.

\*Changes are noted in red font, strikethrough, and grey highlight.

11. AMENDMENT TERMS AND CONDITIONS:

1. **Change** the Grant Agreement Amount from \$449,954.00 to \$3,020,830.00, an increase of \$2,570,876.00 (\$1,710,750.00 federal, \$285,125.00 state, and \$1,024,955.00 local (\$285,125.00 plus an additional contribution of \$739,830.00 above the required match)), as described on Page 2 of this Amendment.
2. The **Phase 1** funding Shares of 75% Federal / 12.5% State / 12.5% Local remain **unchanged**.
3. **Add** additional contribution to Local contributions for **Phase 2**, and to reflect the larger Local contribution, as described on Page 2 of this Amendment.
4. The Grant Agreement End Date of March 15, 2024, remains **unchanged**.
5. **Update** the Work Plan, Attachment 3, STATEMENT OF WORK AND/OR DESCRIPTION OF PROJECT, as described on Page 2 of this Amendment.
6. **Change** the original Project Schedule, Attachment 4, as described on Page 4 of this Amendment.
7. **Change** the original Project Budget, Attachment 5, as described on Page 5-6 of this Amendment.

This Amendment is incorporated in and made a part of the Grant Agreement. Except as amended herein, all other terms and conditions of the Grant Agreement remain in full force and effect. Any reference in the original Grant Agreement or an Amendment to the "Grant Agreement" shall mean "Grant Agreement as amended". The Department and Sub-Recipient acknowledge and accept the terms of this Amendment as identified above, effective on the final date of execution below. By signing this Amendment, the signatories warrant they have the authority to execute this Amendment.

IN WITNESS WHEREOF, the parties have executed this Amendment:	
FOR THE DEPARTMENT:  _____ Signature Date Regan Anne Hesse, Chief Financial Officer Washington State Military Department  BOILERPLATE APPROVED AS TO FORM: _____/Signature on file/ David B. Merchant, Assistant Attorney General 10/11/2021	FOR THE SUBRECIPIENT:  _____ Signature Date Justin Clary, General Manager Organization/Agency  APPROVED AS TO FORM (if applicable):  _____ Applicant's Legal Review Date

# Washington State Military Department Amendments to Agreement D24-016

1. **Change the Total Grant Amount from \$449,954.00 to \$3,020,830.00, an increase of \$2,570,876.00 (\$1,710,750.00 federal, \$285,125.00 state, and \$1,024,955.00 local).**

a. Agreement Face Sheet, Box 2. ~~\$449,954.00~~ \$3,020,830.00

b. Article II.A.2. Project Funding

~~The total cost of the project for the purposes of this Agreement is \$449,954.00 dollars; PROVIDED that, if the total cost of the project when completed, or when this Agreement is terminated, is actually less than above, the actual cost shall be substituted herein.~~

The total cost of the project for the purposes of this Agreement is **\$3,020,830.00** dollars; PROVIDED that, if the total cost of the project when completed, or when this Agreement is terminated, is actually less than above, the actual cost shall be substituted herein.

c. Original Budget, Attachment 5 with Revision 1 Budget, Attachment 5.b.

2. **Change the Project Funding Shares**

a. Agreement Face Sheet, Box 2.

State ~~\$56,244.25~~ \$285,125.00

Federal ~~\$337,465.50~~ \$1,710,750.00

Local ~~\$56,244.25~~ \$285,125.00

Local Addt. Match \$739,830.00

b. Article II.A.2. Project Funding

The value of the contributions by the SUBRECIPIENT to Phase 1 of the project shall be **\$44,462.47** dollars, or 12.5 percent, at minimum, of the total Phase 1 allocation ~~project cost~~. The SUBRECIPIENT's contributions may be cash or in-kind, must be from a non-federal source, must be reasonable, allowable and allocable, and must comply with all Federal requirements and regulations. The value of the contributions by the SUBRECIPIENT to Phase 2 of the project shall be **\$980,492.53** (including **\$240,662.53** dollars, or 12.5 percent of the original awarded project cost, at minimum, *plus an additional contribution of \$739,830.00 above the required match*). The SUBRECIPIENT's contributions may be cash or in-kind, must be from a non-federal source, must be reasonable, allowable and allocable, and must comply with all Federal requirements and regulations.

When the DEPARTMENT enters into an agreement with the Federal Emergency Management Agency (FEMA) to contribute federal funds to Phase 1 of this project, that federal contribution will be **\$266,774.76** dollars, or 75 percent of the total Phase 1 allocation ~~project cost~~, whichever is less. When the DEPARTMENT enters into an agreement with the Federal Emergency Management Agency (FEMA) to contribute federal funds to Phase 2 of this project, that federal contribution will be **\$1,443,975.24** dollars, or 75 percent of the total Original Phase 2 project cost, whichever is less.

The value of the contributions by the DEPARTMENT to the Phase 1 project shall be **\$44,462.47** dollars, or 12.5 percent, at minimum, of the total Phase 1 allocation ~~project cost~~ and is contingent on legislative approval of DEPARTMENT funding pursuant to the prerequisites provided in subsection g. The DEPARTMENT's contributions must be from a non-federal source and must comply with all Federal requirements and regulations. The value of the contributions by the DEPARTMENT to Phase 2 of the project shall be **\$240,662.53** dollars, or 12.5 percent, at minimum, of the total Original Phase 2 project cost and is contingent on legislative approval of DEPARTMENT funding pursuant to the prerequisites provided in subsection g. The DEPARTMENT's contributions must be from a non-federal source and must comply with all Federal requirements and regulations.

3. **Change Attachment 3 STATEMENT OF WORK AND/OR DESCRIPTION OF PROJECT**

a. Phase 2: ~~once awarded and contracted / amended under a separate agreement~~, will include construction of the two reservoirs and all appurtenances, inspections, and project closeout.

b. Add the following:

The contracted Scope of Work shall be updated to include project activities, particularly the impacted vegetation area and actions, as described in the Lake Whatcom Water and Sewer District letter to the Department, dated August 23, 2023, and the FEMA Phase 2 Award Binder Environmental and Standard Conditions, dated November 3, 2023.

4. **Change the original PROJECT DEVELOPMENT SCHEDULE, Attachment 4.**
  - a. ~~Original Project Development Schedule, Attachment 4, with~~ Revision 1 Schedule, Attachment 4.
5. **Change the original PROJECT BUDGET, Attachment 5.**
  - a. ~~Original Project Budget, Attachment 5, with~~ Revision 1 Budget, Attachment 5.a., and Revision 1 Budget: Note to File, Attachment 5.b.

## Revision 1 SCHEDULE

## FY 2023 Hazard Mitigation Grant Program

<b>DESCRIPTION OF ACTIVITY/TASK</b>	<b>SCHEDULED COMPLETION DATE (months)</b>
<i>Phase 1: Advertise and Select Engineering Firm</i>	4
<i>Phase 1: Design of new reservoirs and seismic valve</i>	8
<i>Phase 1: Permitting</i>	6
<i>Phase 2: Timber falling</i>	4
<i>Phase 2: Construct new reservoirs</i>	14
<i>Phase 2: Demo &amp; Site Restoration</i>	2
<i>Phase 2: Closeout</i>	3
Total Time Required to Complete This Project: <u>  41  </u> months	
Quarterly Reports Due on Project Progress, Final Project Report and all documentation, site visits and inspections.	April 15, 2022; July 15, 2022; October 15, 2022; January 15, 2023; April 15, 2023; July 15, 2023; October 15, 2023; January 15, 2024; April 15, 2024 (Final Quarterly Report & Final Closeout Report)



## Revision 1 BUDGET

## FY 2023 Hazard Mitigation Grant Program

<b>APPROVED BUDGET CATEGORY</b>	<b>ESTIMATED COST</b>
Pre-Award Costs (phase 1)	\$33,575.65
Project Inspection Fees (phase 2)	\$140,132.00
Site Work (phase 2)	\$440,175.42
Demo and Removal (phase 2)	\$262,208.00
Construction (phase 2)	\$1,828,360.58
Land Structures, ROW, Appraisals (phase 1)	\$35,015.70
Architectural, Engineering, Geotech (phase 1)	\$262,872.00
Miscellaneous and Permits (phase 1)	\$18,490.65
	<i>Project Total</i> \$3,020,830.00
SubMC – This category is restricted to eligible grant administration costs, including indirect costs, and is limited to 5% of eligible <i>project</i> expenditures. The amount shown here reflects the maximum amount available, based on the approved project budget.	\$0.00
Additional Local Match Funds of \$739,830.00 will be used above the required match. This amount is included in the Project Total.	
<b>TOTAL (Project Total + SubMC): \$3,020,830.00</b>	
<p><b>Tracking and Reporting Project Costs:</b> Project expenses for which reimbursement is sought must be tracked and reported by approved budget cost categories, above. Documentation of expenditures by approved budget cost categories should be made on a separate spreadsheet or table and included with each A-19. Supporting documentation of all costs shall include, but not be limited to: tracking of staff time spent on the project through timesheets or other similar documentation; dated invoices from contractors and subcontractors for work completed; dated invoices for goods and services purchased; and documentation of in-kind contributions of personnel, equipment and supplies.</p> <p><b>Final Payment:</b> Final payment of any remaining, or withheld, funds will be made upon submission by the SUBRECIPIENT within 60 days of completion of the project of the final report and an A-19, Voucher Distribution, and completion of all final inspections by the DEPARTMENT. Final payment also may be conditioned upon a financial review, if determined necessary by the DEPARTMENT. Adjustments to the final payment may be made following any audits conducted by the DEPARTMENT, Washington State Auditor's Office, the United States Inspector General, or their authorized representatives.</p>	

Cumulative transfers to budget categories in excess of ten percent (10%) of the Grant Agreement Amount will not be reimbursed without prior written authorization from the Department.

**Revision 1 Budget: Note to File**

This Revised 1 Budget: Note to File, Attachment 5.b., pertains to the Amendment of **D24-016** and is for record purposes.

The local jurisdiction indicated that they would like to increase their original budget for Phase II. As part of this Phase II budget increase, the locals indicated that they would provide additional funding of \$739,830.00. Although the additional funding is coming from the locals, outside of the original project funding for Phase II, this had to be reported to FEMA and input in the federal system (NEMIS).

Additional funding should not be confused with the required share for the original award. Provided below is a breakdown of the funding for both Phase 1 and Phase 2.

	Phase 1	Phase 2	Totals
Addt Local	\$ -	\$ 739,830.00	\$ 739,830.00
Federal	\$ 337,465.50	\$ 1,373,284.50	\$ 1,710,750.00
Non-federal	\$ 112,488.50	\$ 457,761.50	\$ 570,250.00
State	\$ 56,244.25	\$ 228,880.75	\$ 285,125.00
Local	\$ 56,244.25	\$ 228,880.75	\$ 285,125.00
Award Letter Total (75% fed, 25% non-federal (12.5% State & 12.5% Local), and 100% Additional local match [\$739,830.00])	\$ 449,954.00	\$ 2,570,876.00	\$ 3,020,830.00
Total Project Cost less Addt. Local	\$ 449,954.00	\$ 1,831,046.00	\$ 2,281,000.00

Dated: 12/12/2023

Entry by: Ashley Lawrence & Jennifer Wamboldt



**AGENDA  
BILL  
Item 7.E**

**Public Works Board Loan  
Agreement Supporting the  
Division 7 Reservoir  
Replacement Project**

DATE SUBMITTED:	January 2, 2024	MEETING DATE:	January 10, 2024
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL			
ATTACHED DOCUMENTS	1. Loan Agreement No. PC24-96103-041 with the Washington State Public Works Board		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

A structural analysis of the Lake Whatcom Water and Sewer District Division 7 Water Reservoir found significant deficiencies in its ability to meet existing earthquake code requirements (BHC report, December 2016). The 2017 Water System Plan also analyzed the capacity of the Division 7 reservoir and found it to be significantly oversized. Technical memoranda prepared by Wilson Engineering LLC (dated February 8, 2018 and December 28, 2020) provided alternatives analyses that investigated several options associated with future use of the reservoir or replacement. The recommended alternative replaces the existing welded steel 1-million gallon Division 7 reservoir with two smaller concrete 237,900 gallon reservoirs.

In 2018, the District submitted a FEMA Hazard Mitigation Grant application to replace the Division 7 Reservoir with two new reservoirs constructed to meet seismic standards, and to implement ShakeAlert (earthquake early warning system) on the new reservoirs. The grant application was developed in conjunction with Washington State Emergency Management Division (WA-EMD) of the Washington State Military Department and the Federal Emergency Management Agency (FEMA) as a hazard mitigation project. The cost sharing is as follows: FEMA 75%, WA-EMD 12.5%, and District 12.5%.

Though the grant application was submitted in 2018, the project did not proceed for a few years due to varying circumstances (e.g., grant administrator staffing issues, the COVID-19 pandemic). As a result, the project did not start in earnest until 2021, which culminated in the Board approving a grant agreement for the first phase of work during its February 2, 2022 meeting (the project was split into two phases: Phase 1 – Design and Permitting; and Phase 2 – Construction). At the time of approval of Phase 1, the

total project cost was estimated at \$2,281,000 (FEMA at \$1,710,750, WA-EMD at \$285,125, and the District at \$285,125).

As design and permitting progressed, and recognizing significant escalations in the construction industry, the cost estimate for the entire project was updated in October 2022 at \$2,950,000 (\$669,000 beyond the FEMA-approved grant agreement). Due to the significant increase, the District requested additional funding from FEMA. The District was recently notified by WA-EMD staff that there are no additional federal funds that may be allocated toward the project, and that if the District wished to proceed, it would have to finance the estimated additional \$669,000 (in addition to the District’s grant commitment of \$285,125). Since that notice, the District been notified of receipt of a \$220,000 federal earmark through Congressman Larsen’s Office (however, no formal agreement has been executed to-date), and the District was recently awarded an \$800,000 low interest construction loan through the Washington State Public Works Board (1.72% interest rate over a 20-year payment period).

	<b>Design</b>	<b>Construction</b>	<b>Total</b>
Estimated Cost	\$ 355,699.70	\$ 2,702,000.00	\$ 3,047,904.00
<b>Funding</b>			
FEMA	\$ 337,465.50	\$ 1,373,293.50	\$ 1,710,759.00
WA-EMD	\$ 56,244.25	\$ 228,880.75	\$ 285,125.00
LWWSD Funds	\$ 56,244.25	\$ 228,880.75	\$ 285,125.00
Federal Earmark	\$ -	\$ 220,000.00	\$ 220,000.00
PWB Loan	\$ -	\$ 800,000.00	\$ 800,000.00
Balance	\$ 94,254.30	\$ 149,055.00	\$ 243,309.30

As the table above demonstrates, receipt of the PWB loan will fully fund the project, even if the federal earmark is not ultimately received.

**FISCAL IMPACT**

No fiscal impact is anticipated; Amendment No. 1 to the 2023-24 Budget approved by the Board during its regularly scheduled meeting held on October 11, 2023 included the \$800,000 PWB loan to the District’s Water Utility System Reinvestment Plan.

**APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

Infrastructure Strategy and Performance  
Community Sustainability

**RECOMMENDED BOARD ACTION**

Staff recommends that the Board authorize the General Manager to execute the loan agreement with the Public Works Board.

**PROPOSED MOTION**

Recommended motion is:

“I move to authorize the general manager to execute Loan Agreement No. PC24-96103-041 with the Washington State Public Works Board to enable receipt of \$800,000 for construction of the Division 7 Reservoir Replacement Project as presented.”

## CONTRACT FACE SHEET

**Contract Number:** PC24-96103-041

### PUBLIC WORKS BOARD CONSTRUCTION FUNDING CONTRACT

<b>1. Contractor</b> Lake Whatcom Water and Sewer District 1220 Lakeway Dr Bellingham, WA 98229		<b>2. Contractor Doing Business As (optional)</b> N/A	
<b>3. Contractor Representative</b>		<b>4. Public Works Board Representative</b> Ava Gombosky	
<b>5. Contract Amount</b> \$800,000	<b>6. Funding Source</b> Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>	<b>7. Contract Start Date</b> Contract Execution Date	<b>8. Contract End Date</b> June 1, 2043
<b>9. Federal Funds (as applicable)</b> N/A		<b>Federal Agency</b> N/A	<b>CFDA Number</b> N/A
<b>10. Tax ID #</b> N/A	<b>11. SWV #</b> SWV0049130-01	<b>12. UBI #</b> 600-151-207	<b>13. UEI #</b> N/A
<b>14. Contract Purpose</b> Fund a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets, roads, bridges, drinking water systems, stormwater systems, sanitary sewage systems, or solid waste facilities, including recycling facilities.			
The BOARD, defined as the Washington State Public Works Board and Contractor acknowledge and accept the terms of this Contract and attachments and have executed this Contract on the date below to start as of the date and year last written below. The rights and obligations of both parties to this Contract are governed by this Contract and the following other documents that are incorporated by reference: Contract Terms and Conditions including Declarations Page; Attachment I: Attorney's Certification; and the Public Works Board's Traditional Program Policy Handbook, found on the PWB website.			
<b>FOR THE CONTRACTOR</b>  _____ Signature  _____ Print Name  _____ Title  _____ Date		<b>FOR PUBLIC WORKS BOARD</b>  _____ Kathryn A. Gardow, Public Works Board Chair  _____ Date  <b>APPROVED AS TO FORM ONLY</b>  _____ Signature on File Dawn C. Cortez Assistant Attorney General	



# DECLARATIONS

## CLIENT INFORMATION

Legal Name: Lake Whatcom Water and Sewer District  
Contract Number: PC24-96103-041

## PROJECT INFORMATION

Project Title: Division 7 Reservoir Replacement Project  
Project City: City of Bellingham  
Project State: **Washington**  
Project Zip Code: 98229  
Project Area:

## FUNDING INFORMATION

### LOAN FUNDING:

Loan Amount: **\$800,000**  
Loan Term: **20 years**  
Interest Rate: **1.72%**  
Payment Month: June 1<sup>st</sup>

### GRANT FUNDING:

Grant Amount: \$0  
% of Funding as Grant: 0%

### PROJECT TOTALS:

Total Estimated Cost: **\$800,000**  
Total Project Funding: **\$3,081,000**  
Earliest Date for Cost Reimbursement: **September 8, 2023**  
Time of Performance: 60 months from Execution Date of this Contract to Project Completion.

## ADDITIONAL SPECIAL TERMS AND CONDITIONS GOVERNING THIS CONTRACT

## LOAN SECURITY CONDITION GOVERNING THIS CONTRACT

This loan is a general obligation of the CONTRACTOR.

This loan is a revenue obligation of the CONTRACTOR payable solely from the net revenue of the Storm Water system. Payments shall be made from the net revenue of the utility after the payment of the principal and interest on any revenue bonds, notes, warrants or other obligations of the utility having a lien on that net revenue. As used here, "net revenue" means gross revenue minus expenses of maintenance and operations. The BOARD grants the CONTRACTOR the right to issue future bonds and notes that constitute a lien and charge on net revenue superior to the lien and charge of this loan agreement.

## SCOPE OF WORK

This project includes demolishing a 1 million gallon reservoir and constructing two 237,900 gallon reservoirs, including installation of an isolation valve with electronic actuator.

The project costs may include but are not limited to: engineering, cultural and historical resources, environmental documentation, review, permits, public involvement, and bid documents. The project needs to meet all applicable Local, State, and/or Federal standards.





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# CONTRACT TERMS AND CONDITIONS

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## PUBLIC WORKS BOARD CONSTRUCTION FUNDING PROGRAM

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### SPECIAL TERMS AND CONDITIONS

#### 1.1 Definitions

As used throughout this Construction Funding Contract the following terms shall have the meaning set forth below:

- A. "The BOARD" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and who is a Party to the Contract
- B. "Contract" shall mean this Construction Funding Contract.
- C. "Contractor" shall mean the local government identified on the Contract Face Sheet receiving funding to complete the project described in the SCOPE OF WORK described in this Contract and who is a Party to the Contract, and shall include all employees and agents of the Contractor.
- D. "Declarations " and "Declared" shall refer to the project information, loan terms and conditions as stated on the Declarations Page of this Funding Contract, displayed within the Contract in **THIS STYLE** for easier identification.
- E. The Traditional Program Policy Handbook shall mean the handbook found at the [PWB Traditional Financing Webpage](#) and available upon request as PDF.

#### 1.2 Authority

Acting under the authority of RCW 43.155, the BOARD has awarded the Contractor Public Works Board construction funding for an approved public works project.

#### 1.3 Purpose

The BOARD and the Contractor have entered into this Contract to provide funds to enable the Contractor to undertake a local public works project that furthers the goals and objectives of the Washington State Public Works Program. The project will be undertaken by the Contractor and will include the activities described in the **SCOPE OF WORK** shown on the Declarations page. The project must be undertaken in accordance with the contract terms and conditions, and all applicable federal, state and local laws and ordinances, which are incorporated by reference.

#### 1.4 Order of Precedence

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- A. Applicable federal and state of Washington statutes and regulations.
- B. Special Terms and Conditions including attachments.
- C. General Terms and Conditions.

**1.5 5- year deferral for start-up systems**

If the project financed by this Contract is to develop a system to deliver previously unavailable services, and revenue from those services is to repay the loan, the new system is eligible for a deferral of loan payments for sixty (60) months after the Contract execution date. The Contractor may provide a written request to the BOARD requesting a 5-year deferral for an eligible system. The BOARD may approve the deferral request.

Interest accrues for the aforementioned sixty (60) months. The accrued interest only payment is due June 1 of the 6th year of the loan term. Interest and principal payments are due on June 1 of the 7th year of the loan term.

**1.6 Competitive Bidding Requirements**

The Contractor shall comply with the provisions of RCW 43.155.060 regarding competitive bidding requirements for projects assisted in whole or in part with money from the Public Works Program.

**1.7 Default in Repayment**

If the funding under this Contract constitutes a loan, repayments shall be made on the loan in accordance with Section 1.18 of this Contract. A payment not received within thirty (30) days of the due date shall be declared delinquent. Delinquent payments shall be assessed a monthly penalty beginning on the first (1st) day past the due date. The penalty will be assessed on the entire payment amount. The penalty will be one percent (1%) per month or twelve percent (12%) per annum. The same penalty terms shall apply at project completion if the repayment of loan funds in excess of eligible costs are not repaid at the time of the Project Completion Amendment is submitted, as provided for in Section 1.13.

The Contractor acknowledges and agrees to the BOARD's right, upon delinquency in the payment of any annual installment, to notify any other entity, creditors, or potential creditors of the Contractor of such delinquency.

The Contractor shall be responsible for all legal fees incurred by the BOARD in any action undertaken to enforce its rights under this section.

**1.8 Investment Grade Audit**

For projects involving repair, replacement, or improvement of a wastewater treatment plant, or other public works facility for which an investment grade audit is obtainable, Contractor must undertake an investment grade audit. Costs incurred as part of the investment grade audit are eligible project costs.

**1.9 Sub-Contractor Data Collection**

Contractor will submit reports, in a form and format to be provided by the BOARD and at intervals as agreed by the parties, regarding work under this Contract performed by sub-contractors and the portion of the Contract funds expended for work performed by sub-contractors, including but not necessarily limited to minority-owned, women-owned, and veteran-owned business sub-contractors. "Sub-Contractors" shall mean sub-contractors of any tier.

## **1.10 Eligible Project Costs**

The Eligible project costs must consist of expenditures eligible under Washington Administrative Code (WAC) 399-30-030 and be related only to project activities described in the declared **SCOPE OF WORK**. Eligible costs for reimbursement shall be construed to mean expenditures incurred and paid, or incurred and payable within thirty (30) days of the reimbursement request. Only costs that have been incurred on or after **EARLIEST DATE FOR COST REIMBURSEMENT** shown in the Declarations are eligible for reimbursement under this Contract. Eligible costs will be paid according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

The Contractor assures compliance with WAC 399-30-030, which identifies eligible costs for projects assisted with BOARD funding.

These terms supersede the terms in Section 2.2. Allowable Costs.

## **1.11 Historical and Cultural Resources**

Prior to approval and disbursement of any funds awarded under this Contract, the Contractor shall cooperate with the BOARD to complete the requirements of Governor's Executive Order 21-02 or the Contractor shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Contractor agrees that the Contractor is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless the BOARD and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Contract.

In addition to the requirements set forth in this Contract, the Contractor shall, in accordance with Governor's Executive Order 21-02 as applicable, coordinate with the BOARD and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommendation consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by the Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memoranda of agreement, if historical or cultural artifacts found during the construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the BOARD Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Contract shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in the Contract, the Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permits.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Contract may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

### **1.12 Performance Incentives**

The Contractor shall complete the project no later than sixty (60) months after the date of Contract execution.

Should the Contractor submit the Certified Project Completion Report within forty-eight (48) months of the date of Contract execution, the Contractor may choose one of the two following incentives upon project completion:

- Option A: The repayment period will be increased by twenty-four (24) months, not to exceed the life of the asset, OR:
- Option B: The interest rate will be decreased by one-quarter of one percent (0.25%).

Should the Contractor submit the Certified Project Completion Report within thirty-six (36) months of the date of Contract execution, the Contractor may choose one of the following two incentives upon project completion:

- Option C: The repayment period will be increased by sixty (60) months, not to exceed the life of the asset, OR;
- Option D: The interest rate will be decreased by up to one-half of one percent (0.50%).

Once an option is selected, the Contract shall be modified to note the appropriate change and no further adjustment to the Contract for Performance Incentives shall be authorized. Irrespective of the performance incentive chosen, at no point in time shall the minimum loan interest rate be less than 0.25%.

The calculation of interest rate and term adjustments will apply to the remaining payments beginning from the date the Project Completion report is certified.

### **1.13 Project Completion Amendment and Certified Project Completion Report**

The Contractor shall complete a Certified Project Completion Report when all activities identified in the **SCOPE OF WORK** are complete. The BOARD will supply the Contractor with the Certified Project Completion Report form, which shall include:

- A. A certified statement that the project, as described in the declared **SCOPE OF WORK**, is complete and, if applicable, meets required standards.
- B. A certified statement of the actual dollar amounts spent, from all funding sources, in completing the project as described in the **SCOPE OF WORK**.
- C. Certification that all costs associated with the project have been incurred and have been accounted for. Costs are incurred when goods and services are received and/or Contract work is performed.
- D. A final voucher for the remaining eligible funds.
- E. Pictures of Completed Project.

The Contractor will submit the Certified Project Completion Report together with the last Invoice Voucher for a sum not to exceed the balance of the loan amount. The final Invoice Voucher payment shall not occur prior to the completion of all project activities identified in the **SCOPE OF WORK** and the BOARD's receipt and acceptance of the Certified Project Completion Report.

The Project Completion Amendment shall serve as an amendment to this Contract determining the final loan amount, local share, term, and interest rate.

#### **1.14 Project Signs**

If the Contractor displays, during the period covered by this Contract, signs or markers identifying those agencies participating financially in the approved project, the sign or marker must identify the Washington State Public Works Board as a participant in the project.

#### **1.15 Rate and Term of Loan**

If the Contractor is awarded a loan, the BOARD shall fund the Contractor a sum not to exceed the **LOAN AMOUNT** shown on the Contract Face Sheet and declared on the Contract Declarations Page. The interest rate shall be the declared **INTEREST RATE** per annum on the outstanding principal balance. The length of the loan shall not exceed the declared **LOAN TERM** in years, with the final payment due by the **CONTRACT END DATE** as shown on the Contract Face Sheet.

The loan forgiveness shall be applied at project completion and shall apply to the lesser of the loan amount or the actual eligible costs and that declared percent on any accrued interest. The percent of loan forgiveness and interest rate shall not be changed, regardless of the actual cost of the project and the Affordability Index at project completion.

#### **1.16 Recapture**

In addition to the recapture provisions in Section 2.32, the right to recapture shall exist for a period not to exceed six (6) years following Contract termination. In the event that the Board is required to institute legal proceedings to enforce the recapture provision, the BOARD shall be entitled to its costs, including attorney's fees.

#### **1.17 Reimbursement Procedures and Payment**

If funding or appropriation is not available at the time the invoice is submitted, or when this Contract is executed, the issuance of warrants will be delayed or suspended until such time as funds or appropriation become available. Therefore, subject to the availability of funds, warrants shall be issued to the Contractor for reimbursement of allowable expenses incurred by the Contractor while undertaking and administering approved project activities in accordance with the declared **SCOPE OF WORK**.

The CONTRACTOR shall submit all Invoice Vouchers and all required documentation per guidance in the BOARD Traditional Program Policy Handbook, which is incorporated by reference.

The BOARD shall reimburse the Contractor for eligible project expenditures up to the maximum loan amount under this Contract, as identified in Section 1.10. When requesting reimbursement for costs incurred, the Contractor shall submit all Invoice Vouchers and any required documentation electronically through the Department of Commerce's (COMMERCE) Contracts Management System (CMS), which is available through the Secure Access Washington (SAW) portal. If the Contractor has constraints preventing access to COMMERCE's online A-19 portal, a hard copy A-19 form may be provided by the BOARD Project Manager upon request.

Requests for reimbursements for costs related to **construction** activities will not be accepted until the Contractor provides:

- Proof of compliance with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act, as described in Section 1.11, and
- Signed Public Works Board Notice of Contract Award and Notice to Proceed, which follows the formal award of a construction contract.



If the Contractor receives funding in the form of both a grant and a loan, the Contractor shall bill to the loan and grant proportionally until and if funds are exhausted.

The BOARD will pay the Contractor upon acceptance of the work performed and receipt of properly completed invoices. Invoices shall be submitted to the BOARD monthly or at least quarterly, as appropriate.

Payment shall be considered timely if made by the BOARD within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

The BOARD may, at its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Contract shall be made by the BOARD.

BOARD shall not release the final five (5) percent of the total loan amount until acceptance by BOARD of project completion report.

Duplication of Billed Costs. If the Contractor is entitled to payment or has been or will be paid by another source for an eligible project cost, then the Contractor shall not be reimbursed by the BOARD for that cost.

Disallowed Costs. The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

In no event shall the total Public Works funding exceed 100% of the eligible actual project costs. At the time of project completion, the Contractor shall submit to the BOARD a Project Completion Amendment certifying the total actual project costs, other funding, and local share. The final BOARD funding disbursement shall bring the total funding to the lesser of 100% of the eligible project costs or the total declared **funding under this Contract**. The Project Completion Amendment shall serve as an amendment to this Contract determining the final funding amount, local share, and any applicable interest rate.

In the event that the final costs identified in the Project Completion Amendment indicate that the Contractor has received BOARD monies in excess of 100.00% of eligible costs, all funds in excess of 100.00% shall be repaid to the BOARD by payment to the Department of Commerce, or its successor, together with the submission of the Project Completion Amendment.

### **1.18 Repayment**

If the contract includes loan funding, loan repayment installments are due on the day and month identified under the term: **PAYMENT MONTH** on the Declarations Page. Payments are due each year during the term of the loan beginning one year from the date of Contract execution. Interest only will be charged for this payment if a warrant is issued prior to this date. All subsequent payments shall consist of principal and accrued interest due on the specified **PAYMENT MONTH** date of each year during the remaining term of the loan.

Repayment of a loan under this Contract shall include the declared **INTEREST RATE** per annum based on a three hundred and sixty (360) day year of twelve (12) thirty (30) day months. Interest will begin to accrue from the date each warrant is issued to the Contractor. The final payment shall be on or before the **CONTRACT END DATE** shown on the Declarations page, of an amount sufficient to bring the loan balance to zero.

In the event that the BOARD approves the Contractor's request for a deferral as outlined in Section 1.5, then the first loan repayment is due sixty (60) months after Contract execution. Interest accrues for the sixty (60) months after Contract execution. The accrued interest only will be charged for this payment if a warrant is issued prior to this date. Interest and principal payments are due on the declared **PAYMENT MONTH** date of each year during the remaining term of the loan. The Contractor has the right to repay the unpaid balance of the loan in full at any time or make accelerated payments without penalty.

The Contractor will repay the loan in accordance with the preceding conditions through the use of a check, money order, or equivalent means made payable to the Washington State Department of Commerce, or its successor.

### **1.19 Reports**

The Contractor shall furnish the BOARD with:

- A. Project progress reports per guidance in the BOARD Traditional Program Policy Handbook;
- B. Quarterly Expenditure Projection Reports;
- C. Certified Project Completion Report at project completion (as described in Section 1.13);
- D. Pictures and short videos of various stages of the project, and
- E. Other reports as the BOARD may require.

### **1.20 Termination for Cause**

If the Contractor fails to comply with the terms of this Contract, or fails to use the funds only for those activities identified in the **SCOPE OF WORK**, the BOARD may terminate the Contract in whole or in part at any time. The BOARD shall notify the Contractor in writing of its determination to terminate, the reason for such termination, and the effective date of the termination. Nothing in this section shall affect the Contractor's obligation to repay the unpaid balance of a loan.

These terms supersede the terms in Section 2.41 Termination for Cause/Suspension.

### **1.21 Termination for Convenience**

Notwithstanding anything in Section 2.42 Termination for Convenience, the BOARD may suspend or terminate this Contract in the event that funds are no longer available to the BOARD, or are not appropriated for the purpose of meeting the BOARD's obligations under this Contract. Termination will be effective when the BOARD sends written notice of termination to the Contractor. Nothing in this section shall affect the Contractor's obligation to repay the unpaid balance of the loan.

### **1.22 Time of Performance**

No later than sixty (60) months after the date of Contract execution the Contractor must reach project completion.

Failure to meet Time of Performance shall constitute default of this Contract. In the event of extenuating circumstances, the Contractor may request, in writing, that the BOARD extend the deadline for project completion. The BOARD may extend the deadline.

The term of this Contract shall be for the entire term of any loan provided under this contract, regardless of actual project completion, unless terminated sooner as provided herein.

**1.23 Contract Suspension**

In the event that the Washington State Legislature fails to pass and the Governor does not authorize a Capital Budget by June 30 of each biennium, the Washington State Constitution Article 8 and RCW 43.88.130 and RCW 43.88.290 prohibit expenditures or commitments of state funds in the absence of appropriation.

In such event, all work under this Contract will be suspended effective July 1. The Contractor shall immediately suspend work under this Contract and take all reasonable steps necessary to minimize the cost of performance directly attributable to such suspension until the suspension is cancelled.

The BOARD shall notify the Contractor immediately upon lifting of the Contract suspension.

**1.24 Special Conditions**

If ADDITIONAL SPECIAL CONDITIONS are listed on the Contract Declarations Page then these conditions are herein incorporated as part of the terms and requirements of this Contract.

**1.25 Loan Security**

Loan Security payments shall be made as stated on the attached Declarations Page, and identified as LOAN SECURITY.

# GENERAL TERMS AND CONDITIONS

## 2.1 DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Public Works Board Chair and/or the designee authorized in writing to act on the Chair's behalf.
- B. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- C. "BOARD" shall mean the Washington State Public Works Board created in Revised Code of Washington (RCW) 43.155.030, and which is a Party to the Contract
- D. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. "State" shall mean the state of Washington.
- F. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

## 2.2 Allowable Costs

Costs allowable under this Contract are actual expenditures according to an approved budget up to the maximum amount stated on the Contract Award or Amendment Face Sheet.

## 2.3 ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

## 2.4 AMENDMENTS

This Contract 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.

## 2.5 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35

The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

## 2.6 APPROVAL

This contract shall be subject to the written approval of the BOARD's Authorized Representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

## **2.7 ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of the BOARD.

## **2.8 ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorney's fees and costs.

## **2.9 AUDIT**

### **A. General Requirements**

- If requested by the Board at any time during the contract period and six (6) years following termination of the Contract, Contractor will obtain an audit, at its own expense.
- Contractors are to procure audit services based on the following guidelines.
- The Contractor shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subcontractors also maintain auditable records.
- The Contractor is responsible for any audit exceptions incurred by its own organization or that of its Subcontractors.
- The BOARD reserves the right to recover from the Contractor all disallowed costs resulting from the audit.
- Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Contractor must respond to the BOARD's request for information or corrective action concerning audit issues within thirty (30) days of the date of request.

### **B. State Funds Requirements**

- In the event an audit is required, if the Contractor is a local government entity, the Office of the State Auditor shall conduct the audit.
- Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Contractor.
- The Contractor shall include the above audit requirements in any subcontracts.
- In any case, the Contractor's financial records must be available for review by the BOARD.

## **2.10 CODE REQUIREMENTS**

All construction and rehabilitation projects must satisfy the requirements of applicable local, state, and federal building, mechanical, plumbing, fire, energy and barrier-free codes. Compliance with the Americans with Disabilities Act of 1990 28 C.F.R. Part 35 will be required, as specified by the local building Department.

## **2.11 CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

**A.** "Confidential Information" as used in this section includes:

1. All material provided to the Contractor by the BOARD that is designated as "confidential" by the BOARD;
2. All material produced by the Contractor that is designated as "confidential" by the BOARD; and
3. All personal information in the possession of the Contractor that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's

name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

- B.** The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of the BOARD or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide the BOARD with its policies and procedures on confidentiality. The BOARD may require changes to such policies and procedures as they apply to this Contract whenever the BOARD reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by the BOARD. Upon request, the Contractor shall immediately return to the BOARD any Confidential Information that the BOARD reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.
- C.** Unauthorized Use or Disclosure. The Contractor shall notify the BOARD within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

## **2.12 CONFORMANCE**

If any provision of this contract 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.

## **2.13 COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the BOARD. The BOARD shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to the BOARD effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, 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.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to the BOARD a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the BOARD.

The Contractor shall exert all reasonable effort to advise the BOARD, at the time of delivery of Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The Contractor shall provide the BOARD with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. The BOARD shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

## **2.14 DISALLOWED COSTS**

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subcontractors.

## **2.15 DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Chair of the BOARD, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Contractor's name, address, and Contract number; and
- be mailed to the BOARD Chair and the other party's (respondent's) Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Chair or the Chair's designee and the requestor within five (5) working days.

The Chair or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Chair or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

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

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

## **2.16 DUPLICATE PAYMENT**

The Contractor certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

## **2.17 ETHICS/CONFLICTS OF INTEREST**

In performing under this Contract, the Contractor shall assure compliance with the Ethics in Public Service Act, RCW 42.52 and any other applicable local, state or federal law related to ethics or conflicts of interests.

## **2.18 GOVERNING LAW AND VENUE**

This Contract 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.

## **2.19 INDEMNIFICATION**

To the fullest extent permitted by law, the GRANTEE shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, from and against all claims for injuries or death 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 attorneys' fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The GRANTEE's obligation to indemnify, defend, and hold harmless includes any claim by GRANTEE's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

The Contractor's obligation shall not include such claims that may be caused by the sole negligence of the State and its agencies, officials, agents, and employees. If the claims or damages are caused by or result from the concurrent negligence of (a) the State, its agents or employees and (b) the Contractor, its subcontractors, agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Contractor or its subcontractors, agents, or employees.

The GRANTEE waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the state and its agencies, officers, agents or employees.

## **2.20 INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this Contract are not employees or agents of the state of Washington or the BOARD. The Contractor will not hold itself out as or claim to be an officer or employee of the BOARD or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

## **2.21 INDUSTRIAL INSURANCE COVERAGE**

The Contractor shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the BOARD may collect from the Contractor the full amount payable to the Industrial Insurance Accident Fund. The BOARD may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the BOARD under this Contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

## **2.21 LAWS**

The Contractor shall comply with all applicable laws, ordinances, codes, regulations and policies of local and state and federal governments, as now or hereafter amended including, but not limited to:

### Washington State Laws and Regulations

- A. Affirmative Action, RCW 41.06.020 (11).
- B. Boards of Directors or Officers of Non-profit Corporations – Liability – Limitations, RCW 4.24.264.
- C. Contracts for Architectural and Engineering Services. RCW 39.80
- D. Disclosure-Campaign Finances-Lobbying, RCW 42.17.
- E. Discrimination-Human Rights Commission, RCW 49.60.
- F. Ethics in Public Service, RCW 42.52
- G. Growth Management, RCW 36.70A
- H. Housing Assistance Program, RCW 43.185.
- I. Interlocal Cooperation Act, RCW 39.34.
- J. Noise Control, RCW 70.107.
- K. Office of Minority and Women's Business Enterprises, RCW 39.19 and WAC 326-02.
- L. Open Public Meetings Act, RCW 42.30.
- M. Prevailing Wages on Public Works, RCW 39.12.
- N. Public Records Act. RCW 42.56.
- O. Public Works Projects, RCW 43.155
- P. Relocation Assistance – Real Property Acquisition Policy, RCW 8.26.
- Q. Shoreline Management Act of 1971, RCW 90.58.
- R. State Budgeting, Accounting, and Reporting System, RCW 43.88



- S. State Building Code, RCW 19.27 and Energy-related building standards, RCW 19.27A, and Provisions in buildings for aged and handicapped persons, RCW 70.92.
- T. State Coastal Zone Management Program, Publication 01-06-003, Shorelands and Environmental Assistance Program, Washington State Department of Ecology.
- U. State Environmental Policy, RCW 43.21C.
- V. State Executive Order 21-02 Archeological and Cultural Resources.

### **2.23 LICENSING, ACCREDITATION AND REGISTRATION**

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

### **2.24 LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract.

### **2.25 Local Public Transportation Coordination**

Where applicable, Contractor shall participate in local public transportation forums and implement strategies designed to ensure access to services.

### **2.26 NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the Contractor shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the Board. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

### **2.27 PAY EQUITY**

The Contractor agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A. Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B. Contractor may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
  - 1. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
  - 2. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
  - 3. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Contract may be terminated by the BOARD, if the BOARD, the Department of Commerce, or the Department of Enterprise Services determines that the Contractor is not in compliance with this provision.

### **2.28 POLITICAL ACTIVITIES**

Political activity of Contractor employees and officers are limited by the State Campaign Finances and Lobbying provisions of RCW 42.17 and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used for working for or against ballot measures or for or against the candidacy of any person for public office.

### **2.29 PREVAILING WAGE LAW**

The Contractor certifies that all contractors and subcontractors performing work on the Project shall comply with state Prevailing Wages on Public Works, RCW 39.12, as applicable to the Project funded by this contract, including but not limited to the filing of the "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid" as required by RCW 39.12.040. The Contractor shall maintain records sufficient to evidence compliance with RCW 39.12, and shall make such records available for the BOARDS review upon request.

### **2.30 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or any other approval or concurrence under this Contract provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

### **2.31 PUBLICITY**

The Contractor agrees not to publish or use any advertising or publicity materials in which the state of Washington or the BOARD's name is mentioned, or language used from which the connection with the state of Washington's or the BOARD's name may reasonably be inferred or implied, without the prior written consent of the BOARD.

### **2.32 RECAPTURE**

In the event that the Contractor fails to perform this contract in accordance with state laws, federal laws, and/or the provisions of this contract, the BOARD reserves the right to recapture funds in an amount to compensate the BOARD for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by the BOARD. In the alternative, the BOARD may recapture such funds from payments due under this contract.

### **2.33 RECORDS MAINTENANCE**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six years following the date of final payment.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

### **2.34 REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Contractor shall complete registration with the Washington State Department of Revenue.

### **2.35 RIGHT OF INSPECTION**

At no additional cost all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by the BOARD, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose.

### **2.36 SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, the BOARD may terminate the Contract under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

### **2.37 SEVERABILITY**

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, if such remainder conforms to the requirements of law and the fundamental purpose of this Contract and to this end the provisions of this Contract are declared to be severable.

### **2.38 SUBCONTRACTING**

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of the BOARD.

If the BOARD approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, the BOARD in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to the BOARD if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to the BOARD for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that the BOARD and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

### **2.39 SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

## **2.40 TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Contractor's income or gross receipts, any other taxes, insurance or expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

## **2.41 TERMINATION FOR CAUSE**

In the event the BOARD determines the Contractor has failed to comply with the conditions of this contract in a timely manner, the BOARD has the right to suspend or terminate this contract. Before suspending or terminating the contract, the BOARD shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law.

The BOARD reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the BOARD to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of the BOARD provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

## **2.42 TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract the BOARD may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, the BOARD shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

## **2.43 TERMINATION PROCEDURES**

Upon termination of this contract, the BOARD, in addition to any other rights provided in this contract.

The rights and remedies of the BOARD provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

- A.** Stop work under the Contract on the date, and to the extent specified, in the notice;
- B.** Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C.** Assign to the BOARD, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the BOARD has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D.** Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

- E. Transfer title to the BOARD and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to the BOARD;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the BOARD has or may acquire an interest.

**2.44 TREATMENT OF ASSETS**

Title to all property furnished by the BOARD shall remain with the BOARD. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Contractor.

**2.45 WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of the Board.

# ATTACHMENT I: ATTORNEY'S CERTIFICATION

## PUBLIC WORKS BOARD CONSTRUCTION FUNDING PROGRAM

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**CONTRACTOR: Lake Whatcom Water and Sewer District**  
**CONTRACT Number: PC24-96103-041**

I, \_\_\_\_\_, hereby certify:

I am an attorney at law admitted to practice in the State of Washington and the duly appointed attorney of the Lake Whatcom Water and Sewer District (the CONTRACTOR); and

I have also examined any and all documents and records which are pertinent to the CONTRACT, including the application requesting this financial assistance.

Based on the foregoing, it is my opinion that:

1. The CONTRACTOR is a public body, properly constituted and operating under the laws of the state of Washington, empowered to receive and expend federal, state and local funds, to CONTRACT with the state of Washington, and to receive and expend the funds involved to accomplish the objectives set forth in their application.
2. The CONTRACTOR is empowered to accept the BOARD's financial assistance and to provide for repayment of the loan as set forth in the CONTRACT.
3. There is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin the CONTRACTOR from repaying the loan extended by the BOARD with respect to such project. The CONTRACTOR is not a party to litigation which will materially affect its ability to repay such loan on the terms contained in the CONTRACT.
4. Assumption of this obligation would not exceed statutory and administrative rule debt limitations applicable to the CONTRACTOR.

\_\_\_\_\_  
Signature of Attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name



**AGENDA  
BILL  
Item 9.A**

**General Manager's  
Report**

DATE SUBMITTED:	January 4, 2024	MEETING DATE:	January 11, 2024
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL	<i>Justin Clary</i>		
ATTACHED DOCUMENTS	1. General Manager's Report		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input type="checkbox"/>	INFORMATIONAL/OTHER <input checked="" type="checkbox"/>

**BACKGROUND / EXPLANATION OF IMPACT**

Updated information from the General Manager in advance of the Board meeting.

**FISCAL IMPACT**

None.

**RECOMMENDED BOARD ACTION**

None required.

**PROPOSED MOTION**

None.



LAKE WHATCOM WATER AND SEWER DISTRICT

**General Manager’s Report**

**Upcoming Dates & Announcements**

Regular Meeting – Wednesday, January 10, 2024 – 6:30 p.m.

**Important Upcoming Dates**

Lake Whatcom Water & Sewer District			
Regular Board Meeting	Wed Jan 31, 2024	8:00 a.m.	Board Room/Hybrid
Employee Staff Meeting	Thu Jan 11, 2024	8:00 a.m.	Board Room/Hybrid Commissioner Carter to attend
Investment Comm. Meeting	Wed Feb 28, 2024	10:00 a.m.	Board Room/Hybrid
Safety Committee Meeting	Thur Jan 25, 2024	8:00 a.m.	Board Room
Lake Whatcom Management Program			
Policy Group Meeting	Wed Feb 7, 2024	3:00 p.m.	City of Bellingham Pacific St Ops Center, Rm 111/Hybrid
Joint Councils Meeting	March 2024	TBD	TBD
Other Meetings			
WASWD Section III Meeting	Thur Jan 9, 2024	6:00 p.m.	Bob’s Burgers 8822 Quil Ceda Pkwy, Tulalip, WA
Whatcom Water Districts Caucus Meeting	Wed Jan 17, 2024	2:00 p.m.	Remote Attendance
Whatcom County Council of Governments Board Meeting	Wed Jan 17, 2024	3:00 p.m.	Council of Governments Offices 314 E Champion Street/Hybrid

**Committee Meeting Reports**

Safety Committee:

- The committee met on December 21; topics included welcome of 2024 office/crew representatives, status of review of safety programs, worksite inspections conducted over prior month, and the wildfire smoke rule adopted by WA L&I effective January 15, 2024.

Investment Committee:

- No committee meeting has been held since the last board meeting.

**Upcoming Board Meeting Topics**

- Euclid sewer lift station improvements project contract closeout
- Facility security assessment presentation
- Compensation philosophy policy discussion
- Effective Utility Management assessment



## 2024 Initiatives Status

### Administration and Operations

#### Strategic Planning

- Conduct the AWWA Effective Utility Management (EUM) assessment process, which will inform the next revision to the six-year strategic business plan.  
*District management, staff, and board are scheduled to complete the EUM assessment process on January 23 and 29, and February 14, respectively. Following discussion of assessment results with the board, District staff will update the six-year strategic business plan.*

#### Collective Bargaining Agreement

- Negotiate a successor agreement with AFSCME Local 114WD by December 31, 2024.  
*The District and AFSCME have reviewed consultant proposals received for an analysis of the District's total compensation package, which will be completed in Spring 2024 to inform a critical component of agreement negotiations with AFSCME in Summer/Fall 2024.*

#### Management Team Support

- With the 2022 and 2023 departures of the District's O&M Manager and Engineering Manager, respectively, devote time to coordinating and assisting Mr. Dahlstrom and Mr. Nicoll in their relatively new roles.  
*Monthly one-on-one check-in meetings are scheduled throughout 2024; both J Dahlstrom and G Nicoll are considering applicable leadership/management training opportunities (in addition to J Dahlstrom's participation in the yearlong APWA emerging leaders academy).*

#### Water Right Adjudication

- Represent the District in the water right adjudication process to ensure that its certificated and permitted rights are protected.  
*The Department of Ecology plans to file for adjudication in Spring 2024; J Clary continues to monitor the status and attend associated webinars/meetings, as necessary.*

#### Records Management System

- Implement new records management system.  
*The District executed a personal services agreement in December 2023 for purchase and implementation of the selected enterprise content management (ECM) system (Laserfiche); conversion to the new system is anticipated to be complete by Spring 2024.*

#### Safety Program Update

- Continue systematic review and revision of District's safety programs by updating eight programs in 2024.  
*To be initiated.*

#### Capital Improvement Program Support

- Support the Engineering Department through management of specific capital improvement project(s).  
*Due to workload issues within the Engineering Department, J Clary has taken on a support role (either in the form of project manager or providing technical support) for several District capital improvement projects.*

## **Emergency Response/System Security**

### Emergency Readiness

- Continue use of Whatcom County Department of Emergency Management services to hold tabletop and/or field emergency response field exercises.  
*To be scheduled for 2024. Note—with the retirements of Whatcom County Sheriff and Emergency Management Department Manager, the District will assess the effectiveness of the final year of the existing contract with Whatcom County throughout 2024.*

### Business Continuity Plan

- Finalize a District-specific business continuity plan following FEMA guidance that leads District transition from emergency response (District Emergency Response Plan) to return to normal operation following a disruptive event.  
*The management team is reviewing a draft of the plan.*

## **Community/Public Relations**

### General

- Website  
*The District's web content is reviewed and updated on a regular basis.*
- Social Media  
*Posts are made to District Facebook, LinkedIn, and Nextdoor pages regularly; Nextdoor is also regularly monitored for District-related posts.*
- Press Releases  
*None to-date; press releases will be issued based upon need.*

### Intergovernmental Relations

- *J Clary met with Gary Stoyka, Whatcom County Public Works, on December 18.*
- *J Clary met (virtual) with Representative Alex Ramel on December 18.*
- *J Clary met (virtual) with Representative Joe Timmons on December 19.*
- *J Clary attended a retirement event for John Gargett, Whatcom County Emergency Management Department Manager, on December 20.*
- *J Clary held a conference call with Sean Connell, Congressman Larsen's Office, regarding the Division 7 reservoir project federal earmark on January 3.*
- *J Clary met (virtual) with Senator Sharon Shewmake on January 4.*
- *J Clary is scheduled to attend the WASWD Section III meeting in Marysville on January 9.*

## **Lake Whatcom Water Quality**

### Lake Whatcom Management Program

- Participate in meetings of Lake Whatcom Management Program partners.  
*No LWMP-related meetings were held during the reporting period.*



# LAKE WHATCOM WATER & SEWER DISTRICT

1220 Lakeway Drive  
Bellingham, WA, 98229

(360) 734-9224  
Fax 738-8250

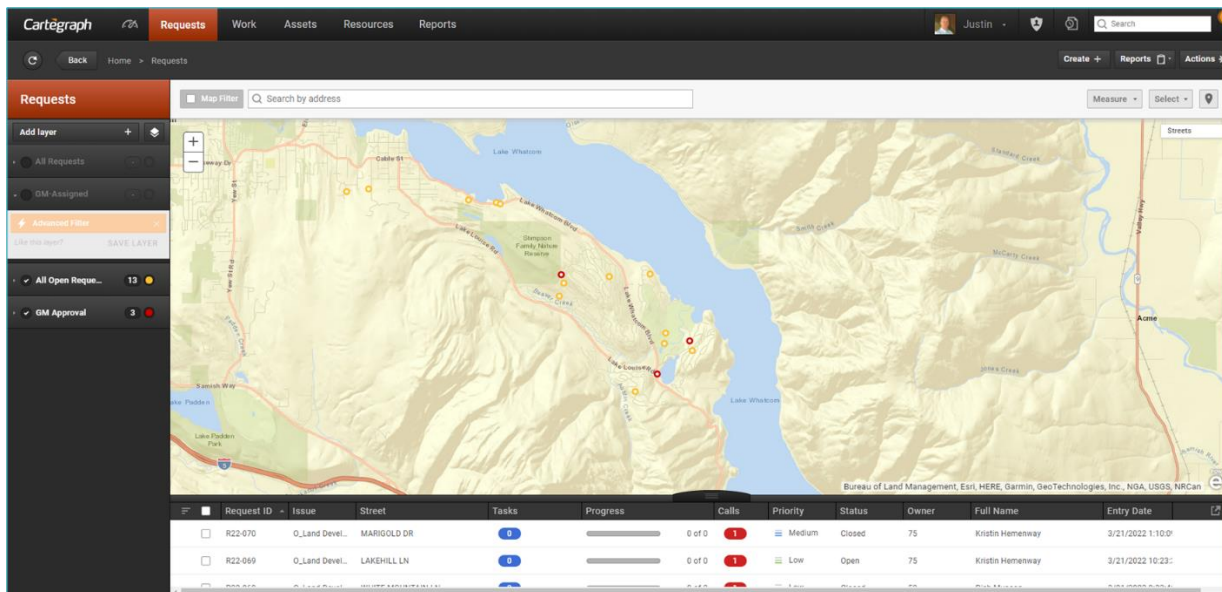
## MEMORANDUM

To: Board of Commissioners  
From: Justin Clary, General Manager

Date: January 4, 2024

RE: Customer Responsiveness Analysis

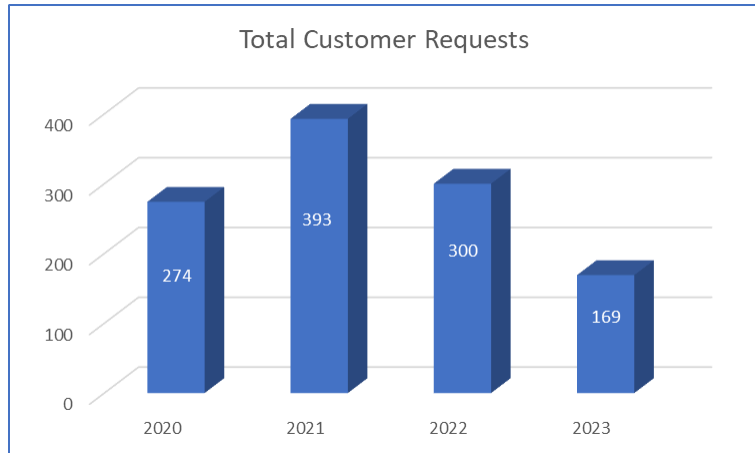
Though the District has used the Cartegraph asset management software for nearly two decades, only over the past few years has the *request management* feature of the software been fully utilized. The request management feature (see figure below) allows for tracking of external requests (e.g., customer complaints, development inquiries, etc.) specific to a location/property through resolution. With this feature, when a request is received, an identification number (e.g., R23-001) and issue category (e.g., W[ater]\_Pressure, S[ewer]\_Leak/overflow, etc.) are created and the task is assigned to an appropriate District employee. A description of the issue and customer contact information are also entered into the request, as well as summaries of District response efforts to the issue. With four years of complete data (2020-2023), request volume and category trends have now been analyzed, as well as District responsiveness (a key component of customer service) from request receipt through closure. The purpose of this memorandum is to provide a summary and analysis of requests the District has processed since 2020.



## Analysis of Requests

The total number of customer requests processed annually during the four-year analysis period peaked at 393 in 2021 and has since trended downward. Following are a few considerations regarding the 2021 peak followed by the downward trend:

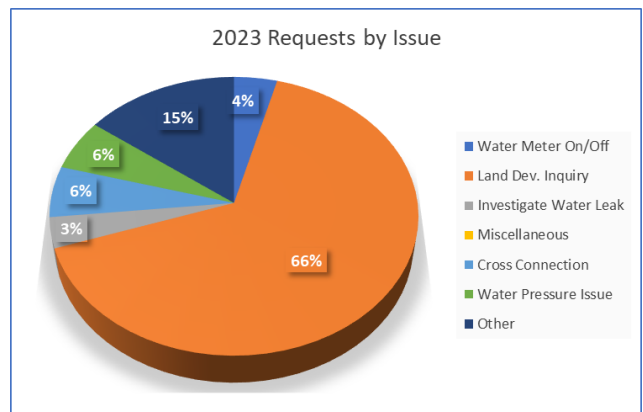
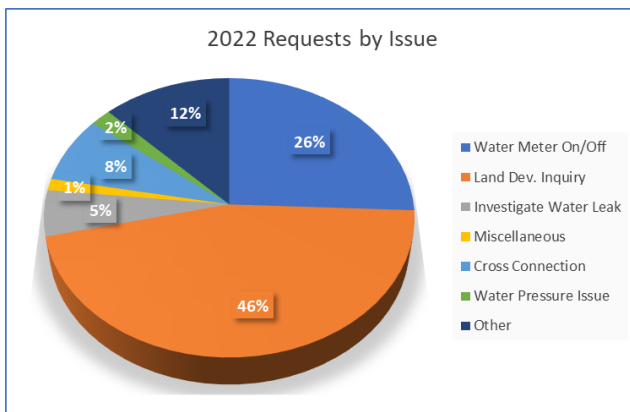
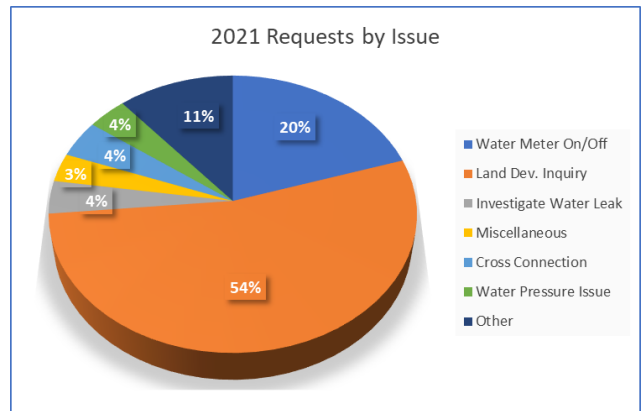
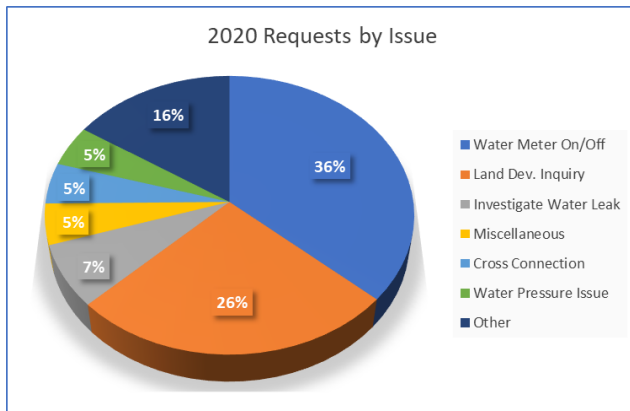
- **Development Inquiries.** Development inquiries make up a sizable percentage of the overall request volume (as is discussed further below). The District did not begin tracking development inquiries in Cartegraph until the middle of 2020, which likely impacted that year's total. Similarly, inflation that negatively affected the home



- construction industry nationally over the past couple of years likely also impacted the number of development inquiries (210, 137, and 111 development-related inquiries processed in 2021, 2022, and 2023, respectively) in the District.
- **Voluntary Billing Suspension Policy Change.** Historically, the District managed voluntary billing suspension requests through Cartegraph, with two requests created for each billing suspension (one to dispatch staff to turn off the water meter and a second to turn it back on). Prior to April 2021, accounts were allowed to be suspended indefinitely. However, with adoption of Resolution No. 874 (April 28, 2021) accounts were limited to four months per year under suspension. Then, with the adoption of Resolution No. 888 (February 22, 2023) the voluntary billing suspension policy was eliminated. This policy shift has significantly reduced the number of water meter on/off requests (100, 79, 77, and 7 requests processed in 2020, 2021, 2022, 2023, and 2024, respectively).

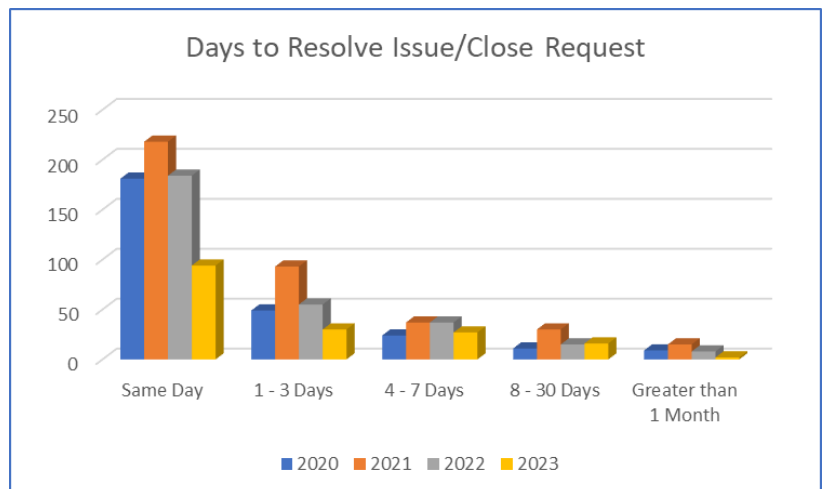
## Issues Generating Requests

To better track customer request trends, each request is entered as one of 26 issue categories (e.g., W[ater]\_Pressure, S[ewer]\_Leak/overflow, etc.) The following pie charts present the annual percentage of the top six issues submitted by District customers. As discussed above, there is a notable shift in the percentage of land development inquiries and water meter on/off requests (voluntary billing suspensions) processed during the analysis period. Otherwise, the next top four categories are relatively consistent throughout the four-year period.



### Request Resolution Trends

District responsiveness to addressing customer requests is a key criterion in assessing customer service. Over the four-year analysis period, the majority (approximately 90%) of all requests received were resolved within a week of the customer’s expectations (with approximately 60% resolved the day on which they were received). As with all data, there are a few considerations that may affect the findings:



- Responsiveness is tracked in calendar days, which may skew responsiveness longer than actual (e.g., a request received on a Friday and resolved on a Monday would be reflected as three days to resolution).
- The type of request can impact overall responsiveness data (for example, a higher-than-normal number of cross connection control inquiries, which tend to take multiple days to resolve, would affect the overall responsiveness trend).

### Conclusions

Though analysis of customer request volumes and trends over a four-year period that included fairly significant external changes (e.g., pandemic, escalating inflation) and internal policy shifts (e.g., elimination of voluntary billing suspension policy), the data does allow for the start of a longer-term analysis of trends. Through use of this and future data, the District will be able to identify potential trends and revise workloads and/or District resources to serve our customers more efficiently.