

WHATCOM COUNTY COUNCIL AGENDA BILL

NO. 2017-138

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	TwH	04/11/17	RECEIVED APR 11 2017 WHATCOM COUNTY COUNCIL	04.18.17	Finance/Council
Division Head:					
Dept. Head:					
Prosecutor:	LG	04/11/17			
Purchasing/Budget:	EBB	4/11/17			
Executive: TWS		4/11/17			

TITLE OF DOCUMENT:
Interlocal Agreement between Whatcom County and Fire District #16 for lost EMS Levy Revenue

ATTACHMENTS:
*Interlocal Agreement
 Memo*

SEPA review required?	() Yes	(X) NO	Should Clerk schedule a hearing?	() Yes	(X) NO
SEPA review completed?	() Yes	(X) NO	Requested Date:		

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: *(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)*

Executive Louws requests Council approval of the Interlocal Agreement between Whatcom County and Fire District #16 for reimbursement of lost District EMS levy revenue due to County wide levy.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #:	Related File Numbers:	Ordinance or Resolution Number:

Please Note: *Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.*

**WHATCOM COUNTY CONTRACT
INFORMATION SHEET**

Whatcom County Contract No.

201704008

Originating Department:	Executive Office
Division/Program: <i>(i.e. Dept. Division and Program)</i>	EMS Administration
Contract or Grant Administrator:	Tawni Helms/Tyler Schroeder
Contractor's / Agency Name:	Fire District #16
Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract? Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _____	
Does contract require Council Approval? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If No, include WCC: _____ (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)	
Is this a grant agreement? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, grantor agency contract number(s): _____ CFDA#: _____	
Is this contract grant funded? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, Whatcom County grant contract number(s): _____	
Is this contract the result of a RFP or Bid process? Contract _____ Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, RFP and Bid number(s): _____ Cost Center: _____	
Is this agreement excluded from E-Verify? No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> If no, include Attachment D Contractor Declaration form.	
If YES, indicate exclusion(s) below: <input type="checkbox"/> Professional services agreement for certified/licensed professional. <input type="checkbox"/> Contract work is for less than \$100,000. <input type="checkbox"/> Contract for Commercial off the shelf items (COTS). <input type="checkbox"/> Contract work is for less than 120 days. <input type="checkbox"/> Work related subcontract less than \$25,000. <input checked="" type="checkbox"/> Interlocal Agreement (between Governments). <input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.	
Contract Amount:(sum of original contract amount and any prior amendments): \$ _____ Reimbursement rate This Amendment Amount: \$ _____ Total Amended Amount: \$ _____	Council approval required for; all property leases, contracts or bid awards exceeding \$40,000 , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, except when: 1. Exercising an option contained in a contract previously approved by the council. 2. Contract is for design, construction, r-o-w acquisition, professional services, or other capital costs approved by council in a capital budget appropriation ordinance. 3. Bid or award is for supplies or equipment included approved in the budget. 4. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.
Summary of Scope: Interlocal Agreement between Whatcom County and Fire District #16 for lost EMS levy revenue due to county wide levy.	
Term of Contract: 6 years	Expiration Date: December 31 2022

Contract Routing:	1. Prepared by: <u>TWH</u>	Date: _____
	2. Attorney signoff: <u>Daniel Gibson</u>	Date: <u>04-11-17</u>
	3. AS Finance reviewed: <u>bbennett</u>	Date: <u>4/11/17</u>
	4. IT reviewed (if IT related): _____	Date: _____
	5. Contractor signed: _____	Date: _____
	6. Submitted to Exec.: _____	Date: _____
	7. Council approved (if necessary): _____	Date: _____
	8. Executive signed: _____	Date: _____
	9. Original to Council: _____	Date: _____



MEMORANDUM

To: Whatcom County Council Members
From: Tyler Schroeder, Deputy Executive
Subject: Interlocal Agreement defining reimbursement of EMS levy revenue to impacted District
Date: April 11, 2017

BACKGROUND

The purpose of this Agreement is to establish the terms for the County to reimburse the District for its lost EMS revenue resulting from the levying of the County EMS Levy and the limitations in RCW 84.52.069.(6).

In 2016, County voters approved a ballot measure authorizing Whatcom County to levy a six (6) year EMS Levy pursuant to RCW 84.52.069(2). The results of this successful countywide levy will impact Fire District #16 which has a pre-existing EMS levy.

The County Treasurer, as necessary, must reduce the pre-existing district levy rates to \$.205 to ensure the combined levy rate does not exceed \$.50. The EMS revenue lost by the District as a result of the levy rate reduction shall be reimbursed.

This Agreement between Whatcom County and Fire District 16 terminates on December 31, 2022 the last year for collection of the County EMS Levy.

FUND SOURCE

The impacted District will be reimbursed through the EMS Fund.

**Interlocal Cooperation Agreement
Between Whatcom County and Fire Protection District #16
for the Purpose of Defining the Allocation of Funds Received from the
Property Tax Rate Increase of \$.295 or Less Per \$1000 of Assessed Valuation for
Countywide Emergency Medical Services**

This Agreement ("Agreement") is entered into between Whatcom County (the "County") and Whatcom County Fire Protection District #16 (the "District") for the purpose of distributing certain Emergency Medical Services (EMS) tax revenues to the District to compensate for the reduction of EMS levy collections as described in Section 7 of County Ordinance 2016-167.

RECITALS

This Agreement is based the following relevant facts and circumstances:

- A. The District has a permanent EMS levy pursuant to RCW 84.52.069(2).
- B. In 2016, County voters approved a ballot measure authorizing Whatcom County to levy a six (6) year EMS Levy pursuant to RCW 84.52.069.
- C. Whatcom County began levying an EMS Levy pursuant to RCW 84.52.069 in the calendar year 2016 (the "County EMS Levy") for collection in 2017. The EMS Levy is a regular property tax levy on all taxable property located in Whatcom County and is in addition to the statutory tax rate limit of RCW 84.52.043.
- D. County EMS Levy proceeds shall be deposited into the County Emergency Medical Services Fund and all levy proceeds authorized in the ordinance shall be used in accordance with RCW 84.52.069.
- E. EMS Levy proceeds are based on assessed valuations that fluctuate from year to year, thereby resulting in fluctuating impacts and resultant compensation to the District.
- F. Pursuant to RCW 84.52.069(6), since the District had a pre-existing EMS levy at the time that the County began levying an EMS Levy, the District's EMS Tax Levy must be reduced by the County Treasurer, as necessary, so that the combined County EMS Levy and the District EMS Levy do not exceed \$0.50. Hereinafter, the annual amount of the EMS revenue lost by the District as a result of this levy rate reduction, if any, shall be referred to as the "Reimbursement Amount").

- G. In 2016, for collection in 2017, District #16 resolved to levy an EMS tax of \$0.499999970193 per thousand dollars of assessed valuation, and the County resolved to levy \$0.295 per thousand dollars of assessed valuation, which results in a decrease of the 2016 District EMS Levy rate to \$0.205000008975 per thousand dollars of assessed valuation.

TERMS AND CONDITIONS

1. Term.

This Agreement takes effect upon the execution hereof by the authorized representatives of all parties. This Agreement will terminate on December 31, 2022 (the last year for collection of the EMS Levy), unless terminated earlier as provided in the Termination Section herein.

2. Purpose.

The purpose of this Agreement is to establish the terms for the County to reimburse the District for its lost EMS revenue resulting from the levying of the County EMS Levy and the limitations in RCW 84.52.069(6).

3. Mutual Consideration.

The parties do not intend to create any new or separate legal or administrative entity by this Agreement. The terms and conditions contained herein reflect the voluntary participation of the parties.

A. **THE DISTRICT'S RESPONSIBILITIES:** The District hereby agrees as follows:

- (i) The District shall continue to provide first response emergency medical services within the boundaries of the District as outlined in the Emergency Medical Services Agreement between Whatcom County and Fire District No. 4 signed on December 31, 1984.
- (ii) The District shall comply with RCW 84.52.069 (5).

B. **WHATCOM COUNTY'S RESPONSIBILITIES:** The County hereby agrees as follows:

The County shall deposit the amount received from the County EMS Levy into the Whatcom County Emergency Medical Services Fund.

- (i) The County shall use all funds deposited into the Whatcom County Emergency Medical Services Fund (the "Fund"), through this Agreement, solely for the support of countywide emergency medical services consistent with the Emergency Medical Services Funding Work Group Recommendations dated March 2016.

- G. In 2016, for collection in 2017, District #16 resolved to levy an EMS tax of \$0.499999970193 per thousand dollars of assessed valuation, and the County resolved to levy \$0.295 per thousand dollars of assessed valuation, which results in a decrease of the 2016 District EMS Levy rate to \$0.205 per thousand dollars of assessed valuation.

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- (ii) During the term of this Agreement, the County shall annually reimburse the District the Reimbursement Amount. Such reimbursement shall be made in two (2) approximately equal payments no later than May 1 and November 1.

4. Relationship of the Parties.

The parties hereto agree that each is an independent entity operating pursuant to the terms and conditions of this Agreement. No agent, employee, or representative of any party shall be deemed to be an agent, employee, or representative of any other party for any purpose. Each party shall be solely and entirely responsible for the acts of its agents and employees during the term of this Agreement.

5. Termination.

This Agreement shall terminate when one of the following occur: (1) if the County EMS Levy is rescinded, then this Agreement shall terminate on December 31 of the year in which the County no longer levies an EMS tax, or; (2) if the District EMS Levy has expired or is not being collected pursuant to RCW 84.52.069(4), whichever comes first.

6. Indemnification and Hold Harmless.

- A. The District agrees to protect, defend, save harmless and indemnify the County from and against all claims, suits, and actions arising from negligent acts or omissions of the District, or its authorized contractors or subcontractors, including its agents or employees, in the performance of this Agreement. In the event the County is required to institute legal action and/or participate in legal action to enforce this indemnification and hold harmless clause, the District agrees to pay the County's reasonable legal fees, costs and disbursements incurred in establishing the right to indemnification.
- B. The County agrees to protect, defend, save harmless and indemnify the District from and against all claims, suits, and actions arising from negligent acts or omissions of the County, or its authorized contractors or subcontractors, including their agents or employees, in the performance of this Agreement. In the event the District is required to institute legal action and/or participate in legal action to enforce this indemnification and hold harmless clause, the County agrees to pay the District's reasonable legal fees, costs and disbursements incurred in establishing the right to indemnification.

7. Notices.

All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage prepaid to:

District: WHATCOM COUNTY FIRE DISTRICT NO. #16
ATTN: FIRE CHIEF

_____, WA 98____

County: WHATCOM COUNTY
ATTN: Tyler Schroeder, Deputy Executive
311 Grand Avenue, Suite 108
Bellingham, WA 98225

or to such other address as the foregoing parties hereto may from time-to-time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery.

8. Captions.

The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

9. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

10. Neutral Authorship.

Each of the provisions of this Agreement have been reviewed and negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

11. Modification.

No changes or additions to this Agreement shall be valid or binding on either party unless such changes or additions shall be in writing executed by both parties.

12. Survivability.

All covenants, promises and performance which are not fully performed as of the date of termination shall survive termination as binding obligations.

13. Non-Waiver of Breach.

The failure of the County or District which is party hereto to insist upon strict performance of any of the covenants and conditions of this Agreement, or to exercise any options herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

14. Dispute Resolution.

- A. In the event of a dispute between the parties arising from this Agreement or any obligations hereunder, the parties shall meet within thirty (30) days of any party's request for a meeting to resolve the dispute. The parties promise to make a good faith attempt to resolve the dispute at this meeting.
- B. In the event the parties are unable to resolve the dispute under the procedure in Section 14. A, then the parties hereby agree that the matter shall be referred to mediation. The parties shall stipulate to a mediator to assist them in resolving their differences. The mediator's fees and expenses shall be borne equally by the parties. The parties agree to select the mediator within ten (10) working days from a party's written request for mediation. The mediation will occur within thirty-five (35) days from the mediator's selection. The parties will participate in good faith in mediation.
- C. Following an unsuccessful mediation, a party may then pursue any available judicial remedies.

15. Venue.

This Agreement, and the rights of the parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington and the parties agree that, in any action, venue shall lie exclusively in the Superior Court of the State of Washington for Whatcom County.

16. Recording.

Upon execution of this Agreement by the parties hereto, the County shall cause it to be recorded with the Whatcom County Auditor or, alternatively, listed by subject on its web site or other electronically retrievable public source, pursuant to the recording requirement contained within RCW 39.34.040.

IN WITNESS WHEREOF, the County and Fire Protection District #16 of Whatcom County have executed this Interlocal Cooperation Agreement as of the date and year last written below.

ENTERED INTO this _____ day of _____, 2017.

Accepted for FIRE PROTECTION DISTRICT #16:

CHIEF HANK MALENG

Attest:

Approved as to Form:

Fire Commissioner

ENTERED INTO this _____ day of _____, 2017.

WHATCOM COUNTY:

Approved as to form:

Daniel L. Gibson

Prosecuting Attorney

Approved:

Accepted for **WHATCOM COUNTY:**

JACK LOUWS, Whatcom County Executive

STATE OF WASHINGTON)
) SS
COUNTY OF WHATCOM)

On this _____ day of _____, 2017, before me personally appeared JACK LOUWS, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington,
residing at _____
My commission expires _____