

# CITY OF LYNDEN

## CITY COUNCIL



City Council - Regular Meeting  
Annex - 205 Fourth Street  
March 18, 2024

### **Call to Order**

### **Pledge of Allegiance**

### **Roll Call**

### **Oath of Office**

- [1.](#) Oath of Office - Police Officer Annika Bierlink

### **Summary Reports and Presentations**

- [2.](#) Health & Community Services Update to Lynden City Council - Erika Lautenbach, Director

### **Approval of Minutes**

### **Citizen Comment**

### **Consent Agenda**

- [3.](#) Approval of Payroll and Claims
- [4.](#) Chamber of Commerce Event Schedule
- [5.](#) Professional Services Agreement with Precision Approach Engineering
- [6.](#) Community/Senior Center Lease and Management Agreement

### **Public Hearing**

### **Unfinished Business**

### **New Business**

- [7.](#) Lead Line Inventory Overview

### **Reports**

- [8.](#) 2023 Transportation Benefit District (TBD) Annual Report

### **Executive Session**

### **Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 18, 2024	
<b>Name of Agenda Item:</b>	Police Officer – Annika Bierlink	
<b>Section of Agenda:</b>	Oath of Office	
<b>Department:</b>	Police Department	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Oath of Office	
<b>Summary Statement:</b>		
<b>Recommended Action:</b>	Mayor Korthuis to administer Ceremonial Oath of Office.	

# CITY OF LYNDEN

POLICE DEPARTMENT  
Office of the Chief of Police  
(360) 354 - 2828



## Police Officer Oath of Office

I, Annika Bierlink, do solemnly swear to perform my duties as Police Officer for the City of Lynden to the best of my ability; to serve the citizens of the City of Lynden with compassion, courage and integrity; and to uphold the laws and constitutions of the United States of America, the State of Washington, and the City of Lynden; so help me God.

\_\_\_\_\_  
Police Officer Signature Date

\_\_\_\_\_  
Mayor Signature Date

\_\_\_\_\_  
Chief Steve Taylor Date

# Health and Community Services Update to Lynden City Council

**Erika Lautenbach, Director**

March 18, 2024



WHATCOM COUNTY  
**HEALTH AND  
COMMUNITY  
SERVICES**



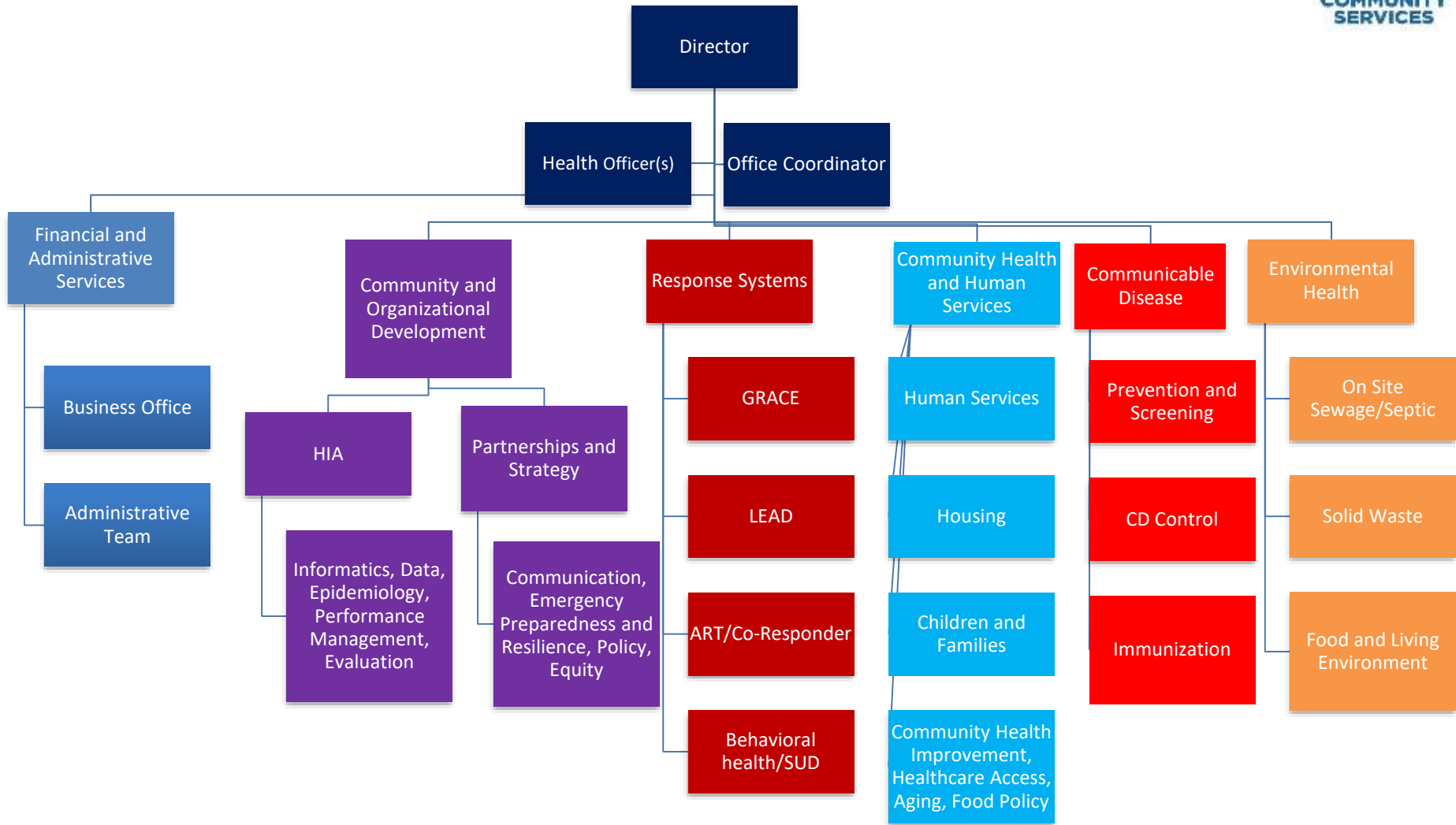
# Department Overview

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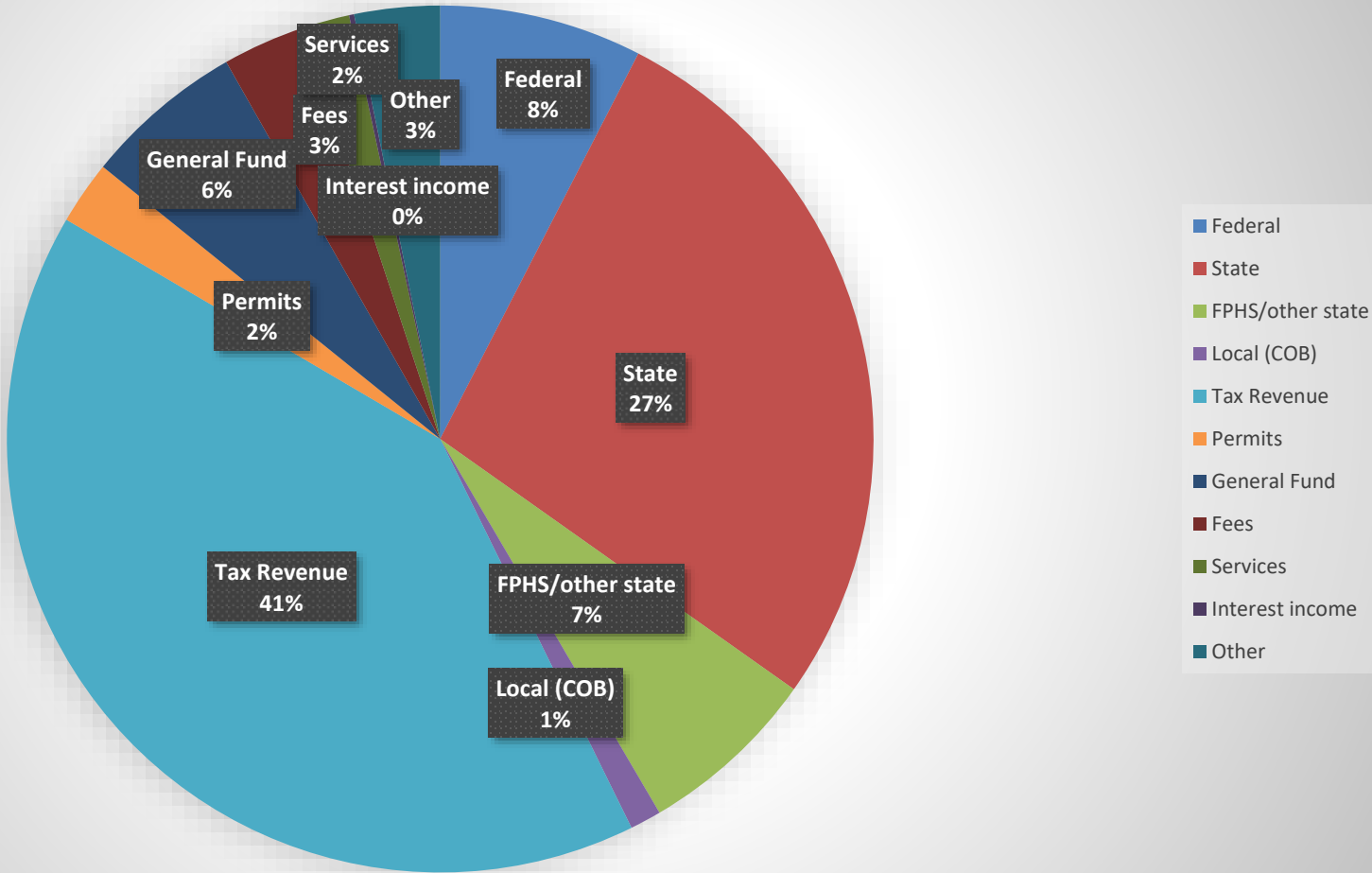
- Community and Organizational Development
- Community Health and Human Services
- Communicable Disease
- Environmental Health
- Financial Services
- Response Systems
  
- Leadership and Administration

# Department Overview



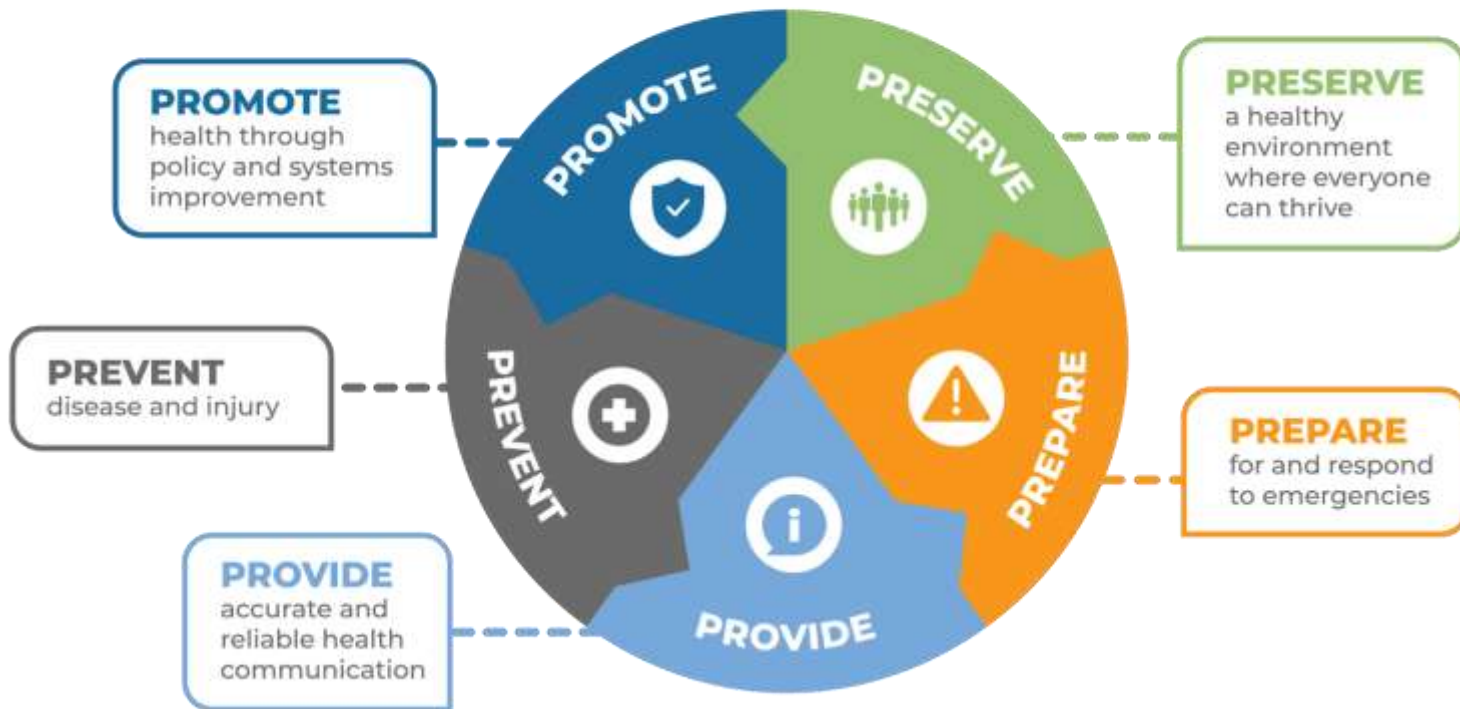
# Budget

### 2024 HCS Revenue



# Strategic Plan

**OUR PURPOSE:** We serve Whatcom County by  
**ADVANCING EQUITY** & **PARTNERING WITH OUR COMMUNITY** to:





# Strategic Plan

## OUR STRATEGIC PRIORITIES:

These four strategic priorities will strengthen Whatcom County Health Department's capacity to fulfill its purpose and positively impact Whatcom County's community health programs, services and systems.

### Community Partnerships & Engagement

Partner collaboratively to find community-based solutions that advance health and health equity.

### Organizational Infrastructure

Effectively manage finances, resources, and staffing to support a culture of ethical practice, decision-making and governance.

### Workforce Development

Build and support a diverse, skilled health and human services workforce while ensuring an organizational culture and work environment that is supportive of staff.

### Quality Management

Use program data to drive decision-making, inform ongoing improvements and foster a culture of transparency and accountability.

# 2023 - Highlights

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- Alternative Response Team
- Co-Responder Program
- Street Medicine Program
- Behavioral Health Fund Investment in Schools
- ARPA Childcare investments
- Healthy Children's Fund implementation plan and selection of priority projects
- Overdose prevention website with data updated monthly
- Fentanyl Multi-Agency Coordination group

# What's Ahead in 2024

## Whatcom Community Health Insights

A public health data center for Whatcom County

Trend

Race & Sex

Age

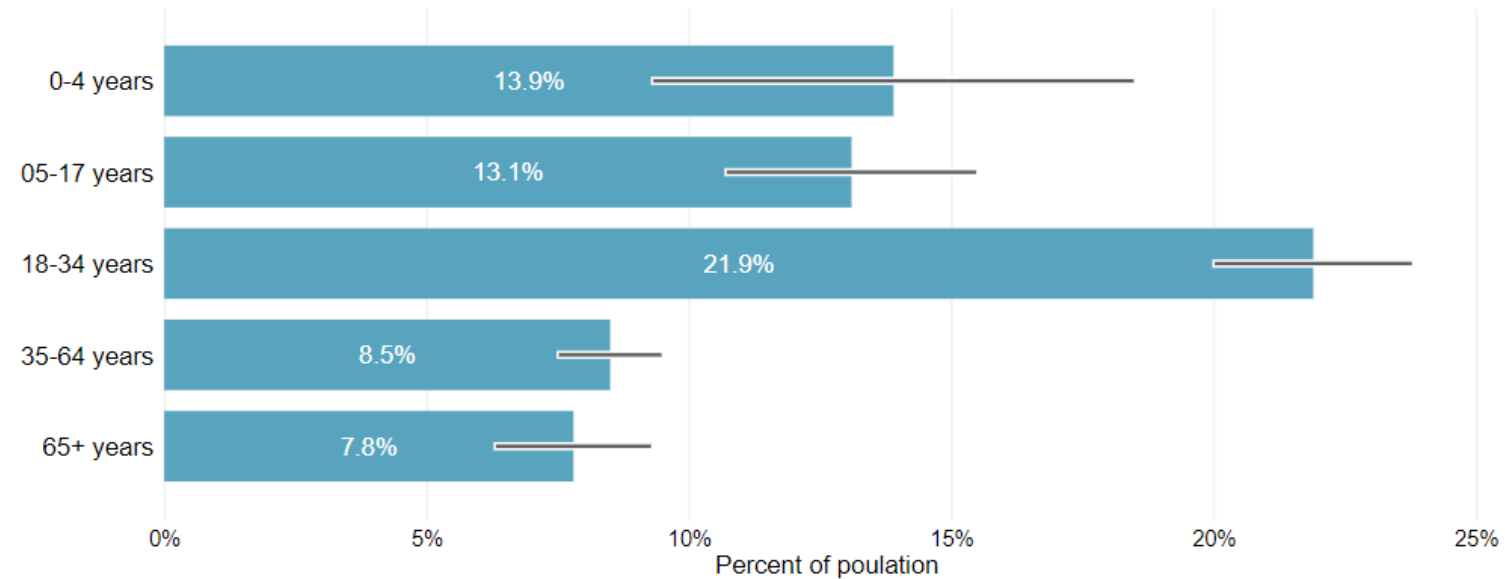
Age Trend

Data Notes

### Population living in poverty in Whatcom County (2018-2022)

Percent of the population living below 100% of the federal poverty level

#### Age Group



Confidence Intervals

- + 78%

# What's Ahead in 2024

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## Whatcom Healthy Children's Fund

# What's Ahead in 2024



# What's Ahead in 2024

## Whatcom Overdose Prevention



# What's Ahead in 2024

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## CLIMATE VULNERABILITY ASSESSMENT

Identifying resilience strategies for the Comprehensive Plan



# What's Ahead in 2024

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## WHATCOM COUNTY JUSTICE PROJECT NEEDS ASSESSMENT

Stakeholder Advisory Committee  
for the Public Health, Safety,  
and Justice Facility Needs Assessment

January 2023



# Questions?

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**Erika Lautenbach, MPH**  
**[elautenb@co.Whatcom.wa.us](mailto:elautenb@co.Whatcom.wa.us)**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 18, 2024	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	Approval of Payroll and Claims	
<b>Recommended Action:</b>	Approval of Payroll and Claims	

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 18,2024	
<b>Name of Agenda Item:</b>	Chamber of Commerce Event Schedule	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Chamber Event Schedule	
<b>Summary Statement:</b>	<p>The Lynden Chamber of Commerce has submitted their event schedule for 2024. This schedule requires the closure of downtown streets for some of the events. Council action is requested to authorize the closures. The Public Safety Committee reviewed the requests at their March 7, 2024 meeting.</p>	
<b>Recommended Action:</b>	<p>It is recommended that Council make a motion to approve and accept the schedule including the closure of streets.</p>	

February 24, 2024

Mayor Scott Korthuis  
Gary Bode  
Lee Beld  
Brent Lenssen  
Nick Laninga  
Kyle Strengholt  
Mark Wolrahb

City of Lynden Mayor and Councilmembers  
300 Fourth St.  
Lynden, Washington 98264

Dear Mayor Korthuis and members of the Council,

The Lynden Chamber of Commerce, in partnership with the City of Lynden, annually organizes and promotes various events within the Lynden community. These events combined are attended by over 220,000 spectators, both from within the community and visitors alike, a symbolic commitment of the City of Lynden and the members of the Lynden Chamber of Commerce to maintain the delicate balance between sustainable growth and preserving the best of our small-town heritage.

Festivals and Events included by the Lynden Chamber of Commerce Events in the 2024 Event Calendar are as follows:

- Whatcom County Youth Fair: April 7-8; NWWF
- International Plowing Match: May 20; Berthusen Park
- Farmers Day Parade: June 1; Front Street /downtown Lynden
- Loyal Order of Camels Fishing Derby: June 8; City Park
- Northwest Raspberry Festival: July 19-20, Front Street/ downtown Lynden
- PSATMA Vintage Farming Days July 31- Aug 3, Berthusen Park
- Northwest Washington Fair: August 8-17; NWWF
- Puget Sound Toy Tractor Show: September 23; NWWF
- Model Railroad Show: October 6-7; NWWF
- Lynden Music Festival: TBA, various locations
- Lighted Christmas Parade: December 7, NWWF, Fairway Center, Downtown.

The 2024 events organized by the Lynden Chamber of Commerce, with assistance and permission for the use of public spaces from the City of Lynden, including use of non-conforming equipment in City controlled space and streets for the above, are scheduled to include the following dates, times, and street closures listed below:

- The Lynden Farmers Day Parade: Saturday, June 1; 5:00 a.m.  
Street Closure: Front St. from 3<sup>rd</sup> to 17<sup>th</sup>; 3<sup>rd</sup> from Front to Grover, Grover from Front to B.C.

- All side streets from 3<sup>rd</sup> to B.C. between Front and Grover, 4<sup>th</sup> St. and 7<sup>th</sup> St. Parking lots
- \* We Request Riverview closed to through traffic sign be placed

**The Northwest Raspberry Festival:** Friday, July 19- and Saturday July 20

Street & Lot Closure: Wednesday, July 17<sup>th</sup>, beginning at 6:00 p.m.

Portions of the parking lots at 7<sup>th</sup> St., and 4<sup>th</sup> St. Street parking lot entirely Eastern parking strip area on 4<sup>th</sup> between Front St. and Grover 6<sup>th</sup> St. from Front to alley with access for the Post Office dock

Street & Lot Closure: Thursday, July 18 – Saturday July 20, beginning at 6:00 a.m.

Remainder of 4<sup>th</sup> Street from Front north to Grover, starting at 6 a.m. Remaining portions of 7<sup>th</sup> Street parking lot

Street Closure: Friday, July 14<sup>th</sup>, Front St. from 3<sup>rd</sup> to 7<sup>th</sup>, beginning at 4:00 a.m.

All side streets from 3<sup>rd</sup> to 7<sup>th</sup> from Front to Grover, except 6<sup>th</sup> & 7<sup>th</sup> as indicated 500 block north, and 7<sup>th</sup> Street parking lots in their entirety East and west 7<sup>th</sup> Street parking stalls north of Front to Grover Riverview signed as “No Thru Access” or similar at Hannegan

Street Closure: Saturday, July 15<sup>th</sup>, Front Street 3<sup>rd</sup> to B.C. Beginning at 5:00 a.m.

All side streets from Front to BC, from Front to alley (access for emergency vehicles will be maintained at 7<sup>th</sup>, 10<sup>th</sup> and B.C.)

4<sup>th</sup>, 5<sup>th</sup> and 7<sup>th</sup> Street parking lots

\*Request closure of housing access off Front near 11<sup>th</sup>

**The Northwest Lighted Christmas Parade:** Saturday, December 7<sup>th</sup>, starting at 4:00 p.m.

Front St. from 3<sup>rd</sup> to 17<sup>th</sup> beginning at 4 p.m.

3<sup>rd</sup> St. from Front to Grover at 4:30 p.m.

Front Street 17<sup>th</sup> St. from 19<sup>th</sup> beginning at 5 p.m., or as directed by LPD

Emergency vehicle access will be maintained at 7<sup>th</sup>, 10<sup>th</sup>, and B.C. Avenue

\*Request closure of new street of Front near 11<sup>th</sup>

\*Request Riverview closed to through traffic

Physical and material assistance provided by the City of Lynden includes:

- Use, placement, and removal of barricades and traffic obstruction devices
- Use and placement of “No Parking” signs.
- Street cleaning pre- and post- event
- Assistance with use of, pick up, set up and return of various event-related infrastructure.
- Banner placement.

The Lynden Chamber of Commerce will as has been past practice maintain communication prior, during and post-event with City of Lynden Fire, Parks, Planning, Police and Public Works departments as required to ensure the best possible experience for event attendees as well as citizens of the community regarding traffic- related issues, including together communicating with agencies such as the WTA and WSDOT regarding street closures and increased or irregular traffic patterns.

The Lynden Chamber of Commerce will submit a \$5 million per/ \$20 million aggregate insurance policy listing the City of Lynden as secondary insured, meeting the City of Lynden requirements.

In conjunction with these and various other community events, pole banners promoting these activities are placed along Front Street, the Guide Meridian, Birch Bay Lynden Road, and rotated as needed. The Lynden Chamber will coordinate placement of these banners with the City of Lynden Public Works Department Street crew. It is anticipated that the following rough timeframe will be utilized:

- Mid-May: Farmer Day Parade and Lynden Farmers Market
- Mid-June: Northwest Raspberry Festival
- Mid-July: Puget Sound Antique Tractor and Machinery Association
- Early August: Northwest Washington Fair
- Early September: Lynden Music Festival
- Mid-October: Lynden Lighted Christmas Parade

The Lynden Chamber will continue to assist community non-profit and other non-commercial entities market Lynden area events and amenities, including parks and lodging opportunities, utilizing both Chamber funding sources as well as funds provided to the Chamber from the City of Lynden through the long-term marketing agreement.

The Lynden Chamber of Commerce staff also continues working in partnership with numerous organizations and businesses in providing advice, coordination, material, assets, and services for events throughout the community.

We look forward to continuing the successful and mutually beneficial partnership with the City of Lynden, community entities, schools, and others whose efforts and energy each contribute to the unique lifestyle and special events that make Lynden such a wonderful place to live, work and play.

Sincerely,

Gary Vis  
Executive Director  
Lynden Chamber of Commerce

- CC:
- Mark Billmire
  - Anthony Burrows
  - Brent DeRuttyer
  - Heidi Gudde
  - John Hutchings
  - Steve Taylor
  - John Williams

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 18, 2024	
<b>Name of Agenda Item:</b>	Professional Services Agreement with Precision Approach Engineering	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Professional Services Agreement – Precision Approach Engineering	
<b>Summary Statement:</b>	<p>Public Works intends to enter into a consultant agreement with Precision Approach Engineering, a firm that focuses on aviation services, to advise the City on proposed developments in the vicinity of the Lynden Municipal Airport and Runway Safety Zone. The consultants will advise about land use compatibility and assist with intergovernmental coordination between the City, WSDOT Aviation Division and the Federal Aviation Administration.</p>	
<b>Recommended Action:</b>	<p>That City Council authorizes the Mayor’s signature on the agreement with Precision Approach Engineering.</p>	

**CITY OF LYNDEN**  
**PROFESSIONAL SERVICES AGREEMENT**  
**City/WSDOT Coordination Regarding Land Development Adjacent to**  
**Lynden Municipal Airport (38W) Runway Safety Zone**

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_ day of February 2024 (“Effective Date”), by and between the City of Lynden, a non-charter code city and municipal corporation (“City”), and Precision Approach Engineering, Inc., a Corporation, (“Consultant”). For the purposes of this Agreement, City and Consultant may be referred to individually as “Party” and collectively as the “Parties.”

**1. SCOPE OF WORK.** Subject to the terms and conditions set forth in this Agreement, and all exhibits attached and incorporated herein, Consultant agrees to perform the professional services to assist with this project as requested by the City to include coordinating with the WSDOT Aviation Division relative to land development in the immediate vicinity of the Airport (Scope of Work). Consultant further agrees to furnish to City all labor, materials, tools, supplies, equipment, services, tasks, and incidental and customary work necessary to competently perform and timely provide the professional services set forth in the Scope of Work. The Consultant will make every attempt to complete the work within the estimated budget and time schedule as set forth in the Scope of Work. Should changes or additions to the Scope of Work require the Consultant to expend more time or incur more expenses than anticipated, the Consultant will notify the City, and upon concurrence by the City, an amendment to the Agreement will be prepared and executed as set forth in Section 5.

**2. TERM.** This Agreement shall have a term of three years (“Term”), commencing on the Effective Date, and may be extended by mutual written agreement of the Parties. Nothing in this section shall prohibit or otherwise restrict the City’s ability to terminate this Agreement at any time for convenience or for cause as set forth in Section 3.

**3. TERMINATION.**

**3.1 Termination Without Cause.** Either Party may, at its sole discretion, terminate this Agreement by giving the other Party a 60-day written Notice of Termination. The City shall pay the Consultant for services rendered under the Scope of Work up to the date such written Notice of Termination is issued, and for such services provided in good faith thereafter up to the effective termination date; provided that, the City shall have the authority to require the Consultant to stop work at any time following issuance of the Notice of Termination by providing such additional written notice.

**3.2 Termination with Cause.** If the Consultant fails to perform the Scope of Services in the manner called for in this Agreement, or unreasonably delays, postpones, or abandons performance thereof, or if the Consultant fails to comply with any other provision of this Agreement and fails to correct such noncompliance within five (5) business days of receiving the City’s written notice thereof, the City may immediately terminate this Agreement for cause by providing written notice thereof. If payment due from City to Consultant becomes delinquent by more than sixty (60) days, the Consultant may terminate this Agreement.



**4. COMPENSATION.**

**4.1** The City agrees to pay the Consultant on a monthly basis, during the Term, commensurate with portions of the work completed. The Consultant's compensation shall be paid monthly on account, for the services performed during that month, with payment due within 30 days of the invoice date. The City of Lynden, Finance Department, must receive invoices from vendors by the 5<sup>th</sup> of each month (or the following Monday if the 5<sup>th</sup> falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second City Council meeting of the month (third Monday) before payment can be rendered. **All invoices must include the project name and number and the services rendered, according to the approved Scope of Work, for which payment is to be rendered. Consultant is responsible for providing a cost tracking report for fund allocations and for declining budget balances on invoices. Invoices and supporting documentation will be reviewed for completeness before payment will be authorized.**

**4.2** Compensation to the Consultant shall be as set forth in the labor rates set forth in **Exhibit "A"** attached and direct non-salary expenses at actual cost.

**5. CONTRACT AMENDMENT.** Either Party may request additions, deletions, or other changes to this Agreement, including without limitation, to its scope, term, and time for performance. However, except as otherwise provided in Section 6, no addition, deletion, or change to this Agreement shall be valid or binding on either Party unless such addition, deletion, or change shall be in writing signed by both Parties. Such amendments shall be made a part of this Agreement.

**6. UNANTICIPATED REDUCTION IN FUNDING.** This Agreement and its ongoing performance shall be contingent on the availability of City funds budgeted for the services described in the Scope of Work. Notwithstanding any provision of this Agreement to the contrary, the City shall be entitled to reduce the scope of the services to be performed, or to terminate this Agreement in its entirety, in the event of any unanticipated reduction in funding or revenue available for the work ("Unanticipated Reduction in Funding"), as determined by the City. The City shall promptly notify the Consultant of any such Unanticipated Reduction in Funding. Should the City elect to terminate this Agreement in response to an Unanticipated Reduction in Funding, the City will pay the Consultant for services rendered under the Scope of Work up to the date the such notice is issued.

**7. INDEPENDENT CONTRACTOR STATUS.**

**7.1** The Parties acknowledge, understand, and agree that Consultant and all persons retained or employed by Consultant are, and shall at all times remain, independent contractors, and are not officials, officers, employees, departments or subdivisions of the City. Nothing contained herein or any document executed in connection herewith, shall be construed to create an employer-employee relationship or joint venture relationship between the City and Consultant, its employees or subcontractors.

**7.2** In the performance of the services herein contemplated, the Consultant is an independent contractor with the authority to control and direct performance of the details of the services; however, the results of the work contemplated herein must meet approval of the City and shall be subject to the City’s general rights of inspection and review to secure the satisfactory completion thereof.

**7.3** As an independent contractor, Consultant is responsible for payment of all taxes arising out of Consultant’s activities in accordance with this Agreement, including by way of illustration but not limitation, Federal income tax, Social Security tax, unemployment insurance taxes, and any other Federal, State or local taxes or business license fees, as required. Any and all sums subject to deductions, if any, required to be withheld and/or paid under any applicable state, federal or municipal laws or regulations, shall be Consultant’s sole responsibility.

**8. PROFESSIONAL STANDARDS.**

**8.1** The Consultant represents that the services shall be performed within the limits prescribed by this Agreement in a manner consistent with that type of care and skill ordinarily exercised by other professionals in the same discipline practicing in the same or similar locality under the same or similar circumstances during the same period of time.

**8.2** The Consultant represents that the studies, projections, plans, reports, design drawings, specifications, cost estimates, and all other engineering, consulting, and analytical services furnished under this Agreement will be in accordance with generally accepted professional practices. The Consultant hereby agrees to exercise usual and customary professional care in efforts to comply with all federal, state, and local laws, rules, and ordinances applicable to the work and to this Agreement in force at the time of Consultant's performance of the work hereunder.

**8.3** It is recognized that Consultant may or will be performing professional services for other parties during the Term; however, the performance of other services may not conflict or interfere with Consultant’s ability to perform the services contemplated in this Agreement. Consultant agrees to resolve any conflicts of interest in favor of the City. Consultant confirms that Consultant does not have a business interest or a close family relationship with any City officer or employee who was, is, or will be, involved in Consultant’s selection, the negotiation, drafting, or signing of this Agreement, or the administration or evaluation of the Consultant’s performance.

**9. OPPORTUNITY TO REMEDY.** The parties agree that in the event of alleged error or omission by the Consultant in performance of services under the Scope of Services due to Consultant’s negligence, the City may notify the Consultant promptly in writing of that fact and allow the Consultant a reasonable time to remedy the problem. Upon notice the Consultant shall promptly review and remedy the problem at the cost of the Consultant. Where responsibility for a problem may be shared by the Consultant and others, the Consultant shall endeavor to remedy the Consultant's share, at the cost of the Consultant, and to cooperate with others involved. If the Consultant demonstrates that it is not at fault for a problem identified by the City under this Section, the City shall reimburse the Consultant for its costs of

investigating the problem. This Section is subject to the City's right to terminate this Agreement with or without cause, and in no respect diminishes the City's rights set forth in Section 3 hereof.

**10. GENERAL CITY RESPONSIBILITIES.** The City shall provide full information regarding its requirements for the services to be performed by the Consultant, and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Consultant's services.

**11. INDEMNIFICATION.**

**11.1** The Consultant agrees to release, indemnify, and hold the City, its elected officials, officers, and employees harmless from any and all claims, demands, actions, and suits, to the extent caused by the negligent acts, errors or omissions of the Consultant in performance of this Agreement, except for that portion of the claim caused by the City's sole negligence. Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Consultant and the City, the Consultant's liability, shall be only to the extent of the Consultant's negligence. Consultant shall require that each sub-contractor shall contractually agree to indemnify the City, its elected officials, officers, and employees to the same extent and on the same terms and conditions as the Consultant as set forth in this paragraph. The City's inspection or acceptance of any of Consultant's work when completed shall not be grounds to avoid any of these obligations to indemnify.

**11.2 Consultant expressly waives any immunity that may be granted to it under the Washington State Industrial Insurance Act, Title 51 RCW, solely for the purpose of the indemnification provided in Section 11.1. The Parties acknowledge that they have mutually negotiated this waiver.**

**11.3** The City agrees to release, indemnify, defend, and hold the Consultant, its officers, employees, agents, representatives, and sub-contractors harmless from any and all claims, demands, actions, suits, fees, penalties, expenses, attorney's fees, costs and litigation expenses resulting from or in connection with this Agreement or to the extent caused by the negligent acts of the City.

**11.4** The provisions of this Section 11 shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

**12. INSURANCE.**

**12.1** The Consultant shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**12.2** Consultant's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Consultant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

12.3 Consultant shall, at minimum, obtain insurance coverage of the following types and policy limits:

<b>Professional Liability</b>	<b>\$2,000,000</b>	<b>each claim</b>
<b>Professional Liability</b>	<b>\$2,000,000</b>	<b>annual aggregate</b>
<b>Commercial General Liability</b>	<b>\$2,000,000</b>	<b>each occurrence</b>
<b>Commercial General Liability</b>	<b>\$2,000,000</b>	<b>annual aggregate</b>
<b>Automobile Liability</b>	<b>\$1,000,000</b>	<b>Combined single limit</b>
<b>Worker's Compensation</b>	<b>Statutory benefits</b>	

12.4 The City of Lynden shall be listed as additional insured on the Consultant's Commercial General and Automobile Liability policies. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.

12.5 The Consultant shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not limited to the additional insured endorsement, evidencing the insurance requirements of the Agreement before commencement of the work. The Consultant shall provide the City with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

12.6 If the Consultant maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Consultant, irrespective of whether such limits maintained by the Consultant are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Consultant.

12.7 Failure on the part of the Consultant to maintain insurance as required shall constitute a material breach of this Agreement, upon which the City may, after giving five (5) business days' notice to the Consultant to correct the breach, immediately terminate the Agreement or, at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be reimbursed to the City on demand, or at the sole discretion of the City, offset against funds due the Consultant from the City.

12.8 The Consultant shall include any sub-consultants as insured under its policies, or shall furnish separate certificates and endorsements for each sub-consultant. All coverage for sub-consultants shall be subject to the same insurance requirements as stated herein for the Consultant.

**13. OWNERSHIP AND USE OF DOCUMENTS.**

13.1 Drawings, specifications, documents and electronic discs prepared by the Consultant pursuant to this Agreement shall become the property of the City upon final payment to the Consultant. The Consultant may retain copies, including reproducible copies of drawings and specifications for information and reference. The Consultant does not intend or represent such drawings and specifications to be suitable for reuse by the City or others for purposes beyond the Scope of Work. The City shall retain copyrights to any and all documents produced by it during the course of this Agreement. The City shall indemnify, hold harmless, and defend

the Consultant from and against any and all claims asserted by any party in any manner resulting from unauthorized use by the City, of the Consultant-prepared drawings, specifications, or other documents.

**13.2** The Consultant shall maintain books, records, and documents that sufficiently and properly reflect all direct and indirect costs related to the performance of this Agreement and shall maintain such accounting procedures and practices as necessary to ensure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other government officials authorized by law to monitor this Agreement.

**13.3** The Consultant shall retain all books, records, documents, and other material relevant to this Agreement for six (6) years following its expiration or termination. The Consultant agrees that the City or its designee shall have full access and right to examine any of said materials at all reasonable times during said period.

**14. DISPUTE RESOLUTION.** Any dispute arising out of the terms and conditions of this Agreement shall be subject to the following mediation process, as a condition precedent to filing any legal cause of action. If a dispute shall arise, a meeting shall be held promptly between the Parties to attempt in good faith to negotiate a resolution to the dispute. For purposes of this Section 14, "promptly" shall mean within fourteen (14) calendar days of a Party requesting a meeting to resolve a dispute. If within ten (10) days after such meeting the Parties have not succeeded in resolving the dispute, the dispute shall be mediated. Either Party may provide written notice to the other that the dispute shall be submitted to mediation and a mediator shall be selected. In the event that within seven (7) days of receipt of said written notice the Parties are unable to agree on a mediator, either Party may request appointment of a mediator by any Judge of the Whatcom County Superior Court, sitting in Chambers, and the Judge is hereby authorized to select a mediator. Both Parties shall cooperate to assure that mediation occurs in a timely manner and both Parties shall supply all materials provided to the mediator to the other Party at least two (2) days before mediation. Engaging in mediation shall not affect any claim, right, remedy, or defense of either Party. Should mediation prove unsuccessful, all claims, rights, remedies and defenses of each Party shall be preserved. Mediation shall be terminated upon (a) successful resolution of the dispute; (b) written declaration by the mediator of an impasse between the Parties; or (c) following completion of two or more mediation sessions held on separate days, written declaration by one of the Parties of an impasse. Each Party shall share equally in the fees and expenses associated with mediation, including fees and expenses of the mediator; provided that, each Party shall bear its own costs, including witness fees, and costs, associated with mediation.

**15. CLAIM AND DISPUTE EVALUATION.** At the City's request, the Consultant will assist the City in reviewing and evaluating claims and disputes, preparing information for the City's legal counsel, providing services as witness in litigation or arbitration to which the City is a party, and providing other services in connection with actual or potential claims or disputes, regardless of whether or not the Consultant is named in such legal action. In no case shall the Consultant be obligated to provide such services until the method of compensation for such services is agreed.

**16. NONDISCRIMINATION.**

**16.1** The City is an equal opportunity employer.

**16.2** Nondiscrimination Requirement. During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.

**16.3** Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).

**16.4** Default. Notwithstanding any provision to the contrary, Agency may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Agency receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Agency may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.

**16.5** Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Agency shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Agency for default under this provision.

**17. SUBCONTRACTING OR ASSIGNMENT.** The Consultant shall not subcontract or assign any portion of this Agreement without prior written approval of the City. All terms and conditions of this Agreement shall apply to any approved subcontract or assignment made pursuant to this Agreement and Consultant shall incorporate by reference this Agreement in its contracts with its subconsultant(s) or assignees.

**18. FORCE MAJEURE.** Neither Party shall be liable to the other Party for failure or delay in performance of this Agreement due to acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either Party or as otherwise defined by law, provided the delayed Party shall make reasonable efforts to avoid or mitigate such delay and shall promptly notify the other Party in writing of the cause of the delay and its extent.

**19. NOTICE.** In every case where, under any of the provisions of this Agreement or in the opinion of either the City or the Consultant or otherwise, it shall or may become necessary or desirable to make, give, or serve any declaration, demand, or notice of any kind or character or for any purpose whatsoever, the same shall be in writing, and it shall be sufficient to either (1) deliver the same or a copy thereof in person to the City Administrator if given by the Consultant, or to the President or Secretary of the Consultant personally, if given by the City; or (2) mail the same or a copy thereof by first class, registered or certified mail, postage prepaid, addressed to the other Party at such address as may have theretofore been designated in writing by such Party, by notice served in the manner herein provided, and until some other address shall have been so designated, the address of the City for the purpose of mailing such notices shall be as follows:

Mayor  
City of Lynden  
300 4<sup>th</sup> Street  
Lynden, Washington 98264

and the address of the Consultant shall be as follows:

Corley McFarland, President  
Precision Approach Engineering, Inc.  
5125 SW Hout Street  
Corvallis, OR 97333

**20. APPLICABLE LAW AND VENUE.** This Agreement has been, and shall be construed as having been made and delivered within the State of Washington, and it is mutually understood and agreed by and between the City and the Consultant, that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance. Any action in law, suit in equity, or judicial proceeding, for the enforcement of this Agreement, or any of the provisions contained therein, shall be instituted and maintained only in the Whatcom County Superior Court, Bellingham, Washington.

**21. ENTIRE AGREEMENT.** This Agreement contains all of the terms and conditions agreed upon by the parties regarding professional services rendered in connection with the Scope of Work. The parties agree that there are no other understandings, oral or otherwise, regarding the subject matter of this Agreement. This Agreement may only be amended by written agreement of the parties.

**22. ATTORNEY’S FEES.** The Parties agree that in the event a civil action is instituted by either Party to enforce any of the terms and conditions of this Agreement or to obtain damages or other redress for any breach hereof, the prevailing Party shall be entitled to recover from the other Party, in addition to its other remedies, its reasonable attorney's fees in such suit or action and upon any appeal therefrom.





# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	March 18, 2024	
<b>Name of Agenda Item:</b>	Community/Senior Center Lease and Management Agreement	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: Legal _____	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Senior Center Lease Agreement Senior Center Management Agreement (March 1, 2024-December 31, 2033)	
<b>Summary Statement:</b>	The Community/Senior Center has been operating without a management agreement for many years and the lease has not been renewed since the operation was taken over from the County. The parties have met and put together new agreements and it has been reviewed by the City Attorney's office.	
<b>Recommended Action:</b>	Staff recommends approval of the agreements and City Council to authorize the Mayor to sign and execute the agreements.	

**SENIOR CENTER LEASE AGREEMENT**

This Senior Center Lease Agreement (“Agreement” or “Lease”) is entered into by and between the City of Lynden (“City” or “Lessor”), a Washington municipal corporation, and Lynden Community/Senior Center (“Lynden Community/Senior Center” or “Lessee”), a Washington nonprofit corporation. The Lessor and Lessee also may be referred to herein individually as “Party” or collectively as “Parties.”

**RECITALS:**

**WHEREAS**, the City of Lynden owns the real property and all improvements thereon commonly known as 401 Grover Street in Lynden and legally described in **Exhibit A** hereto, which is incorporated herein by reference (“Premises” or “Building”); and

**WHEREAS**, the Premises has been the location of the Lynden Senior Center since 1991; and

**WHEREAS**, pursuant to an interlocal agreement with Whatcom County Parks and Recreation (Whatcom County Contract No. 202209050), the City receives funding from the County to support with staffing and operating the Lynden Senior Center (“Interlocal Agreement”); and

**WHEREAS**, the Lynden Community/Senior Center is a 501(c)(3) nonprofit organization that was formed in 2010 and took over operation of the Lynden Senior Center at that time; and

**WHEREAS**, since that time, the Lynden Community/Senior Center has continued to operate the Lynden Senior Center at the Premises; and

**WHEREAS**, the Parties wish to enter into a lease providing for the continued use and possession of the Premises by the Lynden Community/Senior Center according to the following terms and conditions; and

**WHEREAS**, this Agreement is being executed concurrently with a “Lynden Senior Center Management Agreement” between the Parties; and

**WHEREAS**, the foregoing recitals are a material part of this Agreement.

**NOW, THEREFORE**, in consideration of the promises and conditions herein, the Parties hereby agree as follows:

**TERMS AND CONDITIONS OF LEASE:**

1. **Demise of Premises.** The City hereby leases the Premises to Lynden Community/Senior Center, subject to the terms and conditions contained herein.

2. **Term.** This Lease shall commence on March 1, 2024 (“Commencement Date”) and end at midnight on December 31, 2033, unless terminated sooner pursuant to any provision hereof, or extended pursuant to the option for renewal provided for under Section 3 below.
  
3. **Option to Renew.** Lessee shall have the option to renew this lease for one (1) additional five (5) year term upon the conditions contained herein. This option may be exercised by giving Lessor not less than 120 days written notice prior to the expiration of the Term.
  
4. **City’s Option to Terminate.** The City shall have the unilateral option to terminate this Agreement by providing 30 days written notice to Lessee in the event of any of the following: (1) Lessee loses its status as a nonprofit organization, (2) Lessee fails to maintain the insurance coverage required under Section 22 below, (3) the Interlocal Agreement is terminated, (4) Lessee fails to perform any of the responsibilities listed in Section 7 below, or (5) Lessee otherwise materially breaches this Lease.
  
5. **Consideration.** This Lease is being provided in exchange for Lessor’s provision of the services listed in Section 7 below to the Lynden community. No payment of rent is required.
  
6. **Premises Use.** The Lessee hereby agrees to use the Premises for the operation of the Senior Center/Community Center and for no other purpose.
  
7. **Senior Center Services.** Lessee agrees to operate the Lynden Community Center at the Premises. Lessee will ensure the Lynden Community Center is open Monday through Friday of each week from 8:00 a.m. to 4:00 p.m. (excluding holidays). Lessee agrees to (1) operate the Lynden Community/Senior Center’s meal program, (2) provide a variety of healthy lifestyle programs of interest to older adults, (3) provide any other service(s) required under the Interlocal Agreement, and (4) fully meet all of its responsibilities identified in Section 2 of the Lynden Senior Center Management Agreement.
  
8. **Compliance With Laws.** The Premises shall at all times be kept and used in accordance with the laws of the State of Washington and ordinances of the City, and in accordance with all directions, rules and regulations of the County health officer, City building inspector, City fire department, or other proper officer of the City or County.
  
9. **Care of Premises.** The Lessee shall permit no waste, damage, or injury to the Premises and at Lessee’s own cost and expense shall keep such waste, damage, or injury from occurring and shall promptly remediate or repair any such waste, damage, or injury that does occur.

10. **Lessee Management and Operational Responsibility.** Lessee shall be solely responsible for management and operation of the Premises and all costs associated therewith including all costs associated with labor, materials, supplies, and equipment. During the Term, Lessee shall keep the Premises maintained and prevent any waste of the Premises. Lessee shall be responsible for the general upkeep and janitorial services for the Building.
11. **City Maintenance and Repair.** The City will, at its sole cost and expense, reasonably maintain the building in good condition and repair, including but not limited to all designated parking areas, sidewalks, driveways, fences, storm drains, utility lines and meters, painting (excluding interior touchup painting), landscaping (including lawn care and snow removal), repairs and maintenance to the roof and the exterior of the building, wiring, lighting fixtures, windows, plumbing, and any repairs and maintenance to the mechanical integrity of the heating and cooling equipment, excluding modifications or changes to doors, door locks, and security systems. This provision does not apply to damage to the Premises caused intentionally, recklessly or from misuse by the Lessee's staff, volunteers, or agents.
12. **Access by City.** The City shall have the right to enter the Premises at all reasonable times for the purpose of inspection, maintenance, or determining compliance with the terms of this Lease.
13. **Parking.** Lessee's use of the parking spaces available on the Premises is subject to the terms of (1) the "License Agreement For Shared Parking" between the City and Forefront Ventures, LLC (recorded at AF #2141001448), and (2) the provisions of Lynden Municipal Code 10.08.095(B).
14. **Improvements.** No permanent improvements shall be constructed or placed upon the Premises without the prior written consent of the City.
15. **Utilities.** The City shall pay all utility costs associated solid waste and recycling and all costs associated with grease trap pumping at the Premises. Lessee shall pay for all utilities costs associated with the Premises including, but not limited to, electricity, water, sewer, internet, stormwater, and telephone.
16. **Taxes.** The City agrees to pay any real estate taxes or special assessments which are due and payable during the term of this Lease.
17. **Non-Discrimination.** The Lessee shall comply with all federal, state, and local laws governing non-discrimination. The Lessee will not discriminate in providing access or services to the public because of race, creed, color, sex, age, marital status, or national origin. Further, the Lessee will not discriminate in providing services against any person because of the presence of any sensory, mental, or physical disability. Finally, the Lessee agrees to comply with all prohibitions on

discrimination set forth in Sections 11 and 12 of the Lynden Senior Center Management Agreement, which by this reference are fully incorporated herein.

- 18. **Assignment and Sublease.** Neither this Lease, nor any of the Lessee's rights under this Lease, may be assigned or sub-let without the prior written consent of the Lessor, which consent may be withheld or granted in Lessor's sole discretion. This provision does not prohibit Lessee from renting the common areas of the Premises for meetings and other events in accordance with the terms of the rental policy of the Lynden Community / Senior Center, as amended from time to time. The Lynden Community / Senior Center will ensure that every person, group, firm, or corporation renting space within the Premises shall indemnify, defend, and hold harmless the City, the City's employees and agents from any and all claims for damages, injury, or loss suffered or alleged to be suffered in or about the Premises by any person, firm, or corporation,, to the full extent permitted under law, except to the extent such damages, injury, or loss are due to the negligence of the City, the City's employees, or the City's agents.
  
- 19. **Surrender of Possession.** Upon the expiration or termination of this Lease, Lessee shall surrender possession of the Premises to the Lessor in as good condition as the same were in at the beginning of the term of this Lease, or the condition to which they may be improved with prior written consent of the Lessor, reasonable wear and tear and damage by elements excepted.
  
- 20. **Non-Liability of Lessor.** All personal property on the Premises shall be at the risk of Lessee. The Lessor, and Lessor's employees and agents, shall not be liable for any injury to the Lessee, its employees, agents, business or social guests, invitees, members, or any member of the public, entering the Premises for any reason, or for any loss of or damage to goods and chattels resulting from any defect in the Premises or any equipment installed or located therein: and the Lessee shall indemnify the Lessor and hold Lessor harmless from any and all claims for such injury or damage. If any employee or agent of the Lessor shall, at the request of the Lessee, render any service or do any act for or on behalf of or at the direction of the Lessee, which act or service is not required by this Lease to be rendered by the Lessor, then in any and all such cases such employee or agent of the Lessor becomes wholly the agent of Lessee and the Lessor shall not be liable in any manner for damage to property, or injury, or death to persons arising out of or in connection with such service or act.
  
- 21. **Indemnification.** Lessee shall indemnify, defend, and hold harmless the Lessor and Lessor's employees and agents from any and all claims for damages, injury, or loss suffered or alleged to be suffered in or about the Premises by any person, firm, or corporation, to the full extent permitted under law, except to the extent such damages, injury, or loss are due to the negligence of Lessor, Lessor's employees, or Lessor's agents.

22. **Insurance.** Lessee shall at all times maintain a liability insurance policy in connections with operations under this Lease in the minimum amount of Two Million Dollars (\$2,000,000.00) per occurrence, and Four Million Dollars (\$4,000,000.00) aggregate, from a company acceptable to Lessor for the entire term of this Lease, or any extension hereof. Lessor shall be named as an additional insured on said policy. Lessee shall provide a copy of such current policy to Lessor within ten (10) days of the execution of this Agreement, and within ten (10) days of any renewal of said policy. Should the Lessee be notified or have reason to expect a termination or cancellation action by its insurance company, the Lessee will provide the Lessor with at least thirty (30) days advance written notice. Any reduction or cancellation in the coverage or limits shown here, or any failure to provide proof of the required insurance or to timely provide the notice required herein shall constitute a material breach of this Lease and shall be cause for termination by the City pursuant to Section 4(2) above.

23. **Notice.** Any notice, declaration, demand, or communication to be given by one Party to the other pursuant to this Agreement shall be sufficiently given if dispatched by pre-paid first-class mail, or via email, to the addresses of the Parties as designated. Notices sent via first-class mail shall be deemed effective two (2) business days after they are postmarked and notices sent via email shall be deemed effective on the date sent if they are sent before 5:00 pm; if they are sent after 5:00 pm they shall be deemed effective on the following day. The Parties hereto may, from time to time, advise the other of new addresses for such notices, demands, or correspondence.

**To Lessor:**  
 City of Lynden  
 Attn: City Administrator  
 300 Fourth Street  
 Lynden, WA 98264  
 WilliamsJ@lyndenwa.org  
 jennifer@lyndencommunitycenter.org

**To Lessee:**  
 Lynden Community/Senior Center  
 Attn: Executive Director  
 401 Grover Street  
 Lynden, WA 98264  
 Email:

24. **Lease Binding.** This Lease shall be binding on the Lessor and Lessee and on their successors and assigns, provided, however, that this paragraph shall not be construed as permitting any assignment or transfer that is prohibited under Section 18 hereof.

25. **Destruction of Property.** In the event that the Premises is partially destroyed, this Lease remains binding and Lessee shall continue to operate the unaffected portion of the Premises in as full compliance with the terms and conditions of this Lease as is reasonably attainable. If the Premises is totally destroyed to such an extent that the damage cannot be repaired within ninety (90) days, Lessor has the option to repair or terminate this Lease upon thirty (30) days written notice,

without liability.

- 26. **Abandoned Property.** Upon Lease expiration or termination and surrendering possession of the Premises to the Lessor, any personal property remaining in or about the Premises shall be assumed by the Lessor to be abandoned property and may be disposed of in accordance with laws of the State of Washington.
- 27. **Relationship of the Parties.** The Parties agree that they are each independent entities operating pursuant to the terms and conditions of this Lease. No agent, employee, servant or representative of a Party shall be deemed to be an employee, agent, servant or representative of the other Party for any purpose. Unless otherwise provided, each Party will be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the term of this Lease or any extension hereof.
- 28. **Attorney's Fees and Costs.** In case suit or action is instituted to enforce any right, obligation, or term of this Agreement, the Party not prevailing shall pay the prevailing Party's costs and disbursements relating to said proceedings, and such sum as the court determines reasonable for attorney's fees connected with said proceedings.
- 28. **Nonwaiver of Breach.** Failure of either Party at any time to require performance of any provision of this Lease shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Lease constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.
- 29. **Applicable Law, Construction, & Venue.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Washington. In the event this Agreement is in conflict with the provisions of any law or statute governing the subject matter hereof, such law or statute shall be controlling only to the extent of such conflict. The venue for any action brought to interpret or enforce any provision of this Agreement shall be Whatcom County Superior Court.
- 30. **All Remedies at Law and Equity Available.** In the event of a breach of this Agreement, all remedies in law and equity shall be available to the Parties, including the remedy of specific performance.
- 31. **Severability.** In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision herein, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- 32. **Entire Agreement.** This Lease and the Interlocal Agreement constitute the entire agreement between the Parties as to the matters contained herein. There are no

other representations, warranties, covenants, agreements, collateral agreements, or other conditions affecting this Agreement other than those set forth herein. No oral or written statements made by either Party prior to or following execution of this Agreement shall be considered a part of this Agreement unless expressly incorporated herein in writing.

33. **Modification Must Be In Writing.** This Lease may not be modified except by written agreement of the Parties.

34. **Number/Gender/Headings.** As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All paragraph headings and/or captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.


IN WITNESS WHEREOF, the Parties have executed this Lease on the date first above written.

**LESSEE:**

**LESSOR:**

**Lynden Community/Senior Center**

**City of Lynden**

  
By: Jennifer Lautenbach  
Its: Executive Director

\_\_\_\_\_  
Scott Korthuis  
Mayor



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this 11<sup>th</sup> day of March, 2024, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared JENNIFER LAUTENBACH, the Exec. Director of Lynden Community/Senior Center, a Washington nonprofit corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that they were authorized to execute this instrument on behalf of said company.

WITNESS my hand and official seal hereto affixed the day and year first written above.



Kimberly Ryskamp  
Notary Public in and for the State of Washington  
Residing at: Lynden WA  
My commission expires: Sept 4, 2024

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this \_\_\_\_ day of \_\_\_\_\_, 2024, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the City of Lynden, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Exhibit A

**Legal Description of the Premises**

**Assessor's Tax Parcel Number: 400320 262330 0000 and 400320 254328 0000**

The Easterly 29 feet of the Southerly 56 feet of the North half of Lot 2, and the North half of Lots 3, 4, and 5, and the Northwesterly 94 feet of Lots 1 and 2, all in Block 11, Supplemental and Corrected Plat of the Townsite of Lynden, recorded in Volume 3 of Plats, page 48, in the Auditor's office of Whatcom County, Washington.

Situate in Whatcom County, Washington.

## LYNDEN SENIOR CENTER MANAGEMENT AGREEMENT

**THIS LYNDEN SENIOR CENTER MANAGEMENT AGREEMENT (“Agreement”)** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), by and between the CITY OF LYNDEN, a Washington municipal corporation (“City”), and the LYNDEN COMMUNITY/SENIOR CENTER, a Washington nonprofit corporation. The City of Lynden and the Lynden Community / Senior Center may be referred to herein individually as “Party” or collectively as “Parties.”

### RECITALS

**WHEREAS**, in the early 1970s, the City, Whatcom County Parks and Recreation, and the Lynden Council on Aging partnered to open a senior center in Lynden (“Lynden Senior Center”); and

**WHEREAS**, since that time, the Lynden Senior Center has provided a range of services, including communal meals, to older adults in the broader Lynden community; and

**WHEREAS**, for the first four decades of its existence, the Lynden Senior Center was operated by the Lynden Council on Aging, a municipal entity; and

**WHEREAS**, in 1991, the Lynden Senior Center relocated to a building owned by the City at 401 Grover Street in Lynden (“401 Grover Street Building”), where it continues to be located today; and

**WHEREAS**, in 2010, operation of the Lynden Senior Center was transferred to the Lynden Community/Senior Center, a 501(c)3 nonprofit organization; and

**WHEREAS**, since 2010, the Lynden Community/Senior Center has continued operating the meal program, social programs, and fitness programs at the 401 Grover Street Building; and

**WHEREAS**, pursuant to an Interlocal Agreement between the City and Whatcom County Parks and Recreation (Whatcom County Contract No. 202209050) (“Interlocal Agreement”), the County provides funding to the City to assist with the provision of senior services at the Lynden Senior Center; and

**WHEREAS**, the Interlocal Agreement references the Lynden Senior Center being operated by the Lynden Council on Aging; and

**WHEREAS**, section 12 of the Interlocal Agreement allows the City to enter into a contract with a different qualified contractor other than the Lynden Council on Aging to operate the Lynden Senior Center; and

**WHEREAS**, the Parties wish to (1) recognize that, since 2010, the Lynden Community/Senior Center has replaced the Lynden Council on Aging as the qualified contractor operating the Lynden Senior Center, and (2) memorialize the Parties’ agreement regarding the terms and conditions associated with the Lynden Community/Senior Center’s management of the Lynden Senior Center and use of the 401

Grover Street Building; and

**WHEREAS**, the foregoing recitals are a material part of this Agreement.

**NOW, THEREFORE**, in consideration of the promises and conditions herein, the Parties hereby agree as follows:

**1. Designation of Lynden Community/Senior Center as Qualified Contractor.** The Lynden Community/Senior Center agrees to (1) operate the Lynden Senior Center pursuant to the terms of this Agreement, and (2) serve as and fulfill all the responsibilities of the “qualified contractor” under the Interlocal Agreement.

**2. Responsibilities of Lynden Community/Senior Center.** The Lynden Community/Senior Center shall (1) ensure the Lynden Senior Center is open Monday through Friday of each week from 8:00 a.m. to 4:00 p.m. (excluding holidays), (2) operate the Lynden Senior Center’s meal program, and (3) provide a variety of healthy lifestyle programs of interest to older adults. The Lynden Community/Senior Center will also be responsible for daily on-site operations, development of safety policies and monitoring procedures, and providing volunteer opportunities. In addition, the Lynden Community/Senior Center shall assist the City with providing the following to Whatcom County Parks and Recreation, as required by the Interlocal Agreement: (1) progress reports, and (2) invoices for services rendered.

**3. Responsibilities of the City of Lynden.** The City shall provide the Lynden Community/Senior Center the funding received from Whatcom County Parks & Recreation pursuant to the Interlocal Agreement designated to assist with the provision of senior services at the Lynden Senior Center.

**4. Lease of 401 Grover Street Building.** Concurrently with executing this Agreement, the Parties are executing a lease agreement governing the Lynden Community/Senior Center’s use of the 401 Grover Street Building (“Lease”).

**5. Term.** This Agreement shall commence on the Effective Date.

**6. Termination.**

**A. Automatic Termination:** This Agreement shall automatically terminate upon the expiration of the Lease or the termination of the Lease by either Party.

**B. Termination by City:** In the event that the Lynden Community/Senior Center (1) fails to fulfil the responsibilities listed in Section 2 above, (2) loses its status as a nonprofit organization, (3) fails to maintain the insurance coverage required under Section 9 below, or (4) otherwise materially breaches this Agreement, the City may immediately terminate this agreement for cause by providing written notice of termination to the Lynden Community/Senior Center. Furthermore, in the event the Interlocal Agreement is terminated by either the City or Whatcom County Parks and Recreation, the City shall have the option of terminating this Agreement upon 30 days written notice to the Lynden Community/Senior Center.

7. **Notice.** Any notice, declaration, demand, or communication to be given by one Party to the other pursuant to this Agreement shall be sufficiently given if dispatched by pre-paid first-class mail to the addresses of the Parties designated below. Notices sent via first-class mail shall be deemed effective two (2) business days after they are postmarked. The Parties may, from time to time, advise the other party of new addresses for such notices, demands, or correspondence.

**To Lynden Community/Senior Center:**

Lynden Community/Senior Center  
Attn: Executive Director  
401 Grover Street  
Lynden, WA 98264

**To City of Lynden:**

City of Lynden  
Attn: City Administrator  
300 Fourth Street  
Lynden, WA 98264

8. **Indemnification.** The Lynden Community/Senior Center shall fully indemnify and hold both (1) the City, and (2) the Whatcom County Parks and Recreation Department harmless from any claims, losses, liabilities, damages, and expenses (including reasonable attorney’s fees) arising out of the operation of the Lynden Community/Senior Center by an employee, volunteer, invitee, licensee, agent, contractor, or subcontractor of the Lynden Community/Senior Center or by any other person doing business with the Lynden Community/Senior Center.

9. **Insurance.** The Lynden Community/Senior Center shall maintain, at its own expense, (1) a Commercial General Liability insurance policy of \$2,000,000.00 or greater per occurrence and \$4,000,000.00 aggregate, and (2) vehicle insurance of \$2,000,000.00 or greater per occurrence and \$4,000,000.00 aggregate. Said insurance policies shall name both (1) the City, and (2) the Whatcom County Parks and Recreation Department, and their officials, employees, agents, and volunteers, as additional insureds. Such policies shall also waive all rights of Subrogation against the City and its insurance, as well as against Whatcom County Parks and Recreation and its insurance.

The Lynden Community/Senior Center shall timely provide the City with proof of such coverage. In addition, should the Lynden Community/Senior Center be notified or have reason to expect a termination or cancellation action by its insurance company, the Lynden Community/Senior Center will provide the City with at least thirty (30) days advance written notice. Any reduction or cancellation in the coverage or limits shown here, or any failure to provide proof of the required insurance or to timely provide the notice required herein shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the City pursuant to Section 6(B)) above.

10. **Independence of Parties and Employees.** The Lynden Community/Senior Center shall be deemed to be the sole operator of the Lynden Senior Center. All employees and volunteers engaged with or serving in the operation of the Lynden Senior Center shall not be construed to be employees, agents, or volunteers of either the City or Whatcom County Parks and Recreation.

11. **Non-Discrimination In Employment.** The Lynden Community/Senior Center shall comply with all laws prohibiting discrimination against any employee or applicant

for employment on the basis of race, color, creed, religion, national origin, sex, sexual orientation (including gender identity), age, marital status, disability, political affiliation, or veteran status, except where such constitutes a bona fide occupational qualification.

**12. Non-Discrimination In Client Services.** The Lynden Community/Senior Center shall not discriminate in providing services or meeting any of its responsibilities identified in Section 2 above on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation (including gender identity), disability, or veteran status. Furthermore, the Lynden Community/Senior Center shall not deny an individual or business any service or benefits under this Agreement unless otherwise allowed by applicable law; or subject an individual or business to segregation or separate treatment in any manner related to the receipt of any service, services, or other benefits provided under this Agreement unless otherwise allowed by applicable law; or deny an individual or business an opportunity to participate in any program provided by this Agreement unless otherwise allowed by applicable law.

**13. Nonwaiver of Breach.** Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

**14. Compliance with Applicable Laws and Regulations.** The Lynden Community/Senior Center shall at all times exercise its rights herein in accordance with the requirements (as from time-to-time amended) of all applicable laws, statutes, orders, rules, and regulations of any public authority having jurisdiction.

**15. Applicable Law, Construction, & Venue.** This Agreement shall be governed and interpreted in accordance with the laws of the State of Washington. In the event this Agreement is in conflict with the provisions of any law or statute governing the subject matter hereof, such law or statute shall be controlling only to the extent of such conflict. The venue for any action brought to interpret or enforce any provision of this Agreement shall be Whatcom County Superior Court.

**16. All Remedies at Law and Equity Available.** In the event of a breach of this Agreement, all remedies in law and equity shall be available to the Parties, including the remedy of specific performance.

**17. Expenses and Attorney's Fees.** The prevailing Party in any action brought to enforce any terms and conditions of this Agreement shall be entitled to the recovery of its reasonable attorney's fees, costs, and expenses from the other Party.

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

**19. Entire Agreement.** This Agreement and the Lease constitute the entire agreement between the Parties as to the matters contained herein. There are no other

representations, warranties, covenants, agreements, collateral agreements, or other conditions affecting this Agreement other than those set forth herein. No oral or written statements made by either Party prior to or following execution of this Agreement shall be considered a part of this Agreement unless expressly incorporated herein in writing.


**20. Modification Must Be In Writing.** This Agreement may not be modified except by written agreement of the Parties.

**21. Number/Gender/Headings.** As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All paragraph headings and/or captions used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Agreement.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date first above written.

**Lynden Community/Senior Center**

**City of Lynden**

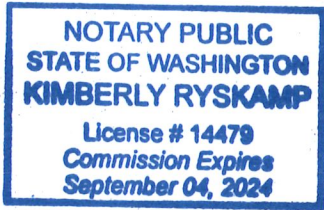
  
By: Jennifer Lautenbaeh  
Its: Executive Director

\_\_\_\_\_  
Scott Korthuis  
Mayor

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this 11<sup>th</sup> day of March, 2024, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared JENNIFER LAUTENBACH, the Exec. Director of the Lynden Community/Senior Center, a Washington nonprofit corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.



Kimberly Ryskamp  
Print Name: KIMBERLY RYSKAMP  
Notary Public in and for the State of Washington  
Residing at: Lynden Wa  
My commission expires: Sept 4, 2024

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF WHATCOM )

On this \_\_\_ day of \_\_\_\_\_, 2024, before me a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of the CITY OF LYNDEN, a Washington municipal corporation, who acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned and stated on oath that he/she was authorized to execute this instrument on behalf of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first written above.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for the State of Washington  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_



# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	March 18, 2024	
<b>Name of Agenda Item:</b>	Lead Line Inventory Overview	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	<p>U.S. Cities are required by the Environmental Protection Agency to inventory drinking water distribution systems for the occurrence of lead and copper. Though the City of Lynden has no known lead pipes, Public Works is compelled to inspect a subset of service lines by October 2024 to confirm this.</p> <p>Affected households are those constructed before 1989. Owners will be randomly selected and contacted via mail to voluntarily submit information on their homes' water pipes. Informational materials are available on the City website.</p>	
<b>Recommended Action:</b>	None	

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	March 18, 2024	
<b>Name of Agenda Item:</b>	2023 Transportation Benefit District (TBD) Annual Report	
<b>Section of Agenda:</b>	Reports	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	TBD Annual Report	
<b>Summary Statement:</b>	<p>The Transportation Benefit District (TBD) 2023 annual report is being provided to comply with RCW 36.73.160(2) which states that the “district shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district.” The attached report provides information on 2023 planned and actual revenues and expenditures. It also discusses major actions affecting the Lynden TBD including the planned expenditures for 2024.</p> <p>The Public Works Committee reviewed the 2023 TBD annual report at their meeting on March 6, 2023. The Finance Committee reviewed the report prior to tonight’s City Council meeting.</p>	
<b>Recommended Action:</b>	This item is for information only.	



# CITY OF LYNDEN

## Transportation Benefit District 2023 SUMMARY REPORT

The Transportation Benefit District (TBD) 2023 annual report is being provided to comply with RCW 36.73.160(2) which states that the “district shall issue an annual report, indicating the status of transportation improvement costs, transportation improvement expenditures, revenues, and construction schedules, to the public and to newspapers of record in the district.” The intent of this report is to provide information on 2023 planned and actual revenues and expenditures. It also discusses major actions affecting the Lynden TBD.

2023 was the first year of the renewed ten-year voter-approved TBD sales tax. Voters passed the renewal at the 2022 November General Election, and effective in 2023, authorized continuation of a sales and use tax of two tenths of one percent (0.002) to be collected from all taxable retail sales within the TBD in accordance with RCW 82.14.0455 for a term of ten years, or until such District is dissolved, whichever is earlier, for the purpose of paying or financing costs of necessary transportation improvement projects listed and identified in the City of Lynden Six-Year Transportation Improvement Plan.

### 2023 Revenue

The 2023 Budget projected planned TBD Revenue of \$750,000. Lynden’s TBD sales tax revenues in 2023 exceed budget by 21.9% as shown in the following table:

2023 Monthly Sale Tax Revenue			
January	\$ 75,245.82	July	\$ 79,466.81
February	77,477.27	August	85,350.19
March	63,967.57	September	76,305.70
April	65,416.43	October	82,050.94
May	78,600.84	November	80,575.29
June	72,304.97	December	77,224.42
2023 Total Tax Revenue			\$ 913,986.25

## 2023 TBD Planned & Actual Expenses

Project	Total Project Estimate*	2023 Budgeted Expenses	2023 Actual Expenditures
1. South Park Waterline & Overlay	\$ 1,857,264.95	\$ 300,000.00	\$ 148,188.90
2. Cedar Drive Sewer & Overlay	1,500,844.36	402,500.00	27,934.06
3. East Front Street Settlement	460,000.00	230,000.00	345,487.64
4. Judson LID Phase 1 – 8 <sup>th</sup> Street	931,500.00	70,000.00	0
5. Judson LID Phase 2 – 9 <sup>th</sup> Street	954,707.84	20,000.00	0
6. Emergency Culvert Replacement (Duffner Ditch)	2,725,934.13	164,125.00	3,214.02
7. Main St Intersection Rehabilitation (3 <sup>rd</sup> Street)	1,024,570.18	339,750.00	163,488.08
8. CERB Loan Repayment Fund 5 <sup>th</sup> Street (Fund 241)		32,622.00	32,621.72
9. Other Miscellaneous Expenses (Insurance, Audit Fees)		592,003.00	(12,859.85)
Totals		<b>\$ 2,151,000.00</b>	<b>\$ 708,074.57</b>

\*Total Project Estimates: Include all phases of the project. Projects may span multiple years and have multiple funding sources. This table represents budget/expenditures from TBD source only.

### Comments on 2023 Budget Execution:

1. South Park received grant and loan funding from the Whatcom EDI Program so fewer TBD funds were required.
2. Cedar Drive was delayed due to the extent of utility improvements identified during field investigation and design. There are also some right-of-way issues that will need to be resolved. This project was expected to begin in 2023 but has been extended to 2024.
3. East Front construction was completed in 2023. Construction costs were more than anticipated.
4. 8<sup>th</sup> Street Judson LID Phase 1 was completed in 2023 with streets and utility funds utilized to conserve the TBD budget.
5. 9<sup>th</sup> Street Judson LID Phase 2 was in design phase in 2023 with utility funds used to conserve the TBD budget.
6. Emergency Culvert Replacement (Duffner Ditch) design has continued, causing lower-than-budgeted TBD usage.
7. Main Street Intersection Rehabilitation (3<sup>rd</sup> Street) was completed under budget.
8. The annual CERB loan payment was made.



South Park Waterline & Overlay (Before & After)

## 2023 TBD Beginning and Ending Fund Balance

	Totals
<b>Beginning Fund Balance</b>	<b>\$ 1,445,086.55</b>
2023 Expenses	708,074.57
2023 Tax Revenue	913,986.25
Interest Income	41,916.21
<b>Ending Fund Balance</b>	<b>\$ 1,692,914.44</b>

## Budgeted 2024 Revenue

Budgeted revenue for 2024 is \$965,000.00.

## Budgeted 2024 Project Expenditures

The Lynden City Council passed the 2024 Budget at their regular meeting on December 4, 2023. The 2024 Transportation Benefit District budget includes the following projects:

Project	Total Project Estimate***	TBD Funds
Cedar Drive Overlay	1,500,844	1,460,000
Judson LID Phase II – 9 <sup>th</sup> Street	954,708	200,000
1 <sup>st</sup> Street Rehab	974,132	340,000
Main / 1 <sup>st</sup> Street Turn Realignment	50,000**	50,000
Hannegan / Riverview Turn Lane	50,000**	50,000
W Main / Berthusen Roundabout	4,732,663	20,000
Benson Road Complete Street – Sunrise to Badger	5,863,446	43,000
Emergency Culvert Replacement (Duffner Ditch)	2,725,934	210,000
Liberty Street Sidewalks	470,000	75,000
CERB Loan Repayment Fund 5 <sup>th</sup> Street (Fund 241)		32,622
<b>Total Planned 2024 Project Expenditures</b>		<b>\$ 2,480,622</b>

\*\*2024 Design Estimates

\*\*\*Total Project Estimates: Include all phases of the project. Projects may span multiple years and have multiple funding sources. This table represents budget/expenditures from TBD source only.

If you have any questions or comments regarding this report, please contact Jon Hutchings, Public Works Director, at (360) 354-3446 or by email at [hutchingsj@lyndenwa.org](mailto:hutchingsj@lyndenwa.org).