

**TOWN OF WOODWAY
COUNCIL MEETING AGENDA**

**MONDAY, DECEMBER 5, 2022
6:00 P.M.**

Woodway Town Hall | 23920 113th Place W. | Woodway, WA

6:00 P.M.		Call to Order, Flag Salute, & Roll Call
6:00 P.M.		Public Comments*
6:05 P.M.	I	Approval of Payments – <i>December 5, 2022 Claims, November 2022 Payroll</i>
6:10 P.M.	II	Approval of Minutes – <i>November 21, 2022</i>
6:15 P.M.	III	Council Reports
6:20 P.M.	IV	Mayor’s Report
6:25 P.M.	V	Town Administrator’s Report
6:30 P.M.	VI	Ordinance 2022-645: 2022 Budget Amendment
6:40 P.M.	VII	Reappoint Planning Commissioners Lisa Marquart and John Rettenmier
6:45 P.M.	VIII	Amendment to Prosecution Services Contract
6:50 P.M.	IX	Comprehensive Plan Update – Direction to Planning Commission re: Affordable Housing
6:55 P.M.	X	Comprehensive Plan Update – Grant Contract
7:00 P.M.	XI	Resolution 2022-444: Payment Procedures
7:05 P.M.		Public Comments*
7:10 P.M.		General Council Discussion – Choice of Subjects
7:15 P.M.		Adjournment

Council agendas are subject to change before or during the council meetings upon motion. All times are approximate.

**Anyone with a disability requiring special accommodations or anyone wishing to make a public comment for this meeting via video or audio connection should contact the Town Clerk's Office at Town Hall or call (206)542-4443 before 1:00 p.m. the Thursday preceding the Council Meeting. For TDD relay service, call (206)587-5500, or outside the Seattle area #1-800-833-6388.*



TOWN OF WOODWAY
CLAIMS APPROVAL

“I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein and that the claim is a just, due, and unpaid obligation against the Town of Woodway, Snohomish County, Washington, and that I am authorized to authenticate and certify to said claims.”

Clerk Treasurer

The following transactions are approved for 2022 payment:

Claims checks #14006 through 14022 and EFTs #1541 through 1543\$61,438.06

This 5th day of December 2022.

Mayor

Councilmember

Councilmember

Councilmember

*The three largest charges on the credit card bill are:

1. Yearly subscription for online GIS: \$1009.98
2. Monthly Office 365 email-only subscriptions: \$201.55
3. Fuel: \$974.83 (PD - \$212.32, PW - \$762.51)

*Note: Two large items are being paid

- \$14,096.18 for police investigation services
- \$29,818.82 for the Twin Maples bioswales construction – pmt 1 of 2



TOWN OF WOODWAY
PAYROLL APPROVAL

“I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein and that the claim is a just, due, and unpaid obligation against the Town of Woodway, Snohomish County, Washington, and that I am authorized to authenticate and certify to said claims.”

Clerk-Treasurer

The following November 2022 Payroll transactions, for 6.65 FTE, are approved for 2022 payment:

EFT transactions #1508 through 1526.....\$62,898.51

This 30th day of November 2022

Mayor

Councilmember

Councilmember

Councilmember

* There were 0 comp time hours accrued in November 2022

**TOWN OF WOODWAY
COUNCIL MEETING MINUTES**

**MONDAY, NOVEMBER 21, 2022
6:00 P.M.**

Woodway Town Hall | 23920 113th Place W. | Woodway, WA

Members Present	<input checked="" type="checkbox"/> Mayor Mike Quinn	<input checked="" type="checkbox"/> Councilmember Andrew DeDonker*
	<input checked="" type="checkbox"/> Councilmember Elizabeth Mitchell	<input checked="" type="checkbox"/> Councilmember John Brock
	<input checked="" type="checkbox"/> Councilmember Brian Bogen	<input type="checkbox"/> Councilmember Rajeev Thakur
Staff & Guests Present	<input checked="" type="checkbox"/> Town Administrator Eric Faison*	<input checked="" type="checkbox"/> Clerk-Treasurer Heidi Napolitano
	<input type="checkbox"/> Town Attorney Greg Rubstello	<input type="checkbox"/> Town Engineer John Forba
	<input type="checkbox"/> Fire Chief Matt Cowan	<input checked="" type="checkbox"/> Public Works Director Terry Bryant*

*Attended virtually

CALL TO ORDER, FLAG SALUTE, ROLL CALL

Mayor Quinn called the meeting to order at 6:00 p.m. Councilmember Thakur was absent.

PUBLIC COMMENTS

Resident Lynda Tripp commented on safety concerns when walking in the Twin Maples neighborhood.

Resident Murph Morrill shared her concerns about speeding in the Twin Maples neighborhood.

Resident Tanny Ray shared her concerns about the danger of walking/riding bikes in the Twin Maples neighborhood.

Resident Jim Willett shared that he is concerned about the possible legal repercussions of dangerous driving in the Twin Maples neighborhood.

V - APPROVAL OF PAYMENTS – NOVEMBER 21, 2022 CLAIMS

Councilmember Bogen moved to approve the November 21, 2022 claims checks #13997 through 14005 and EFT #1479 totaling \$111,227.24. *Councilmember Mitchell* seconded the motion. The motion passed unanimously.

VI - APPROVAL OF MINUTES – OCTOBER 17, 2022 MINUTES

Councilmember Bogen moved to approve the October 17, 2022 council meeting minutes. *Councilmember Brock* seconded the motion. The motion passed unanimously.

VII - APPROVAL OF MINUTES – OCTOBER 25, 2022 SPECIAL MEETING MINUTES

Councilmember Brock moved to approve the October 25, 2022 council special meeting minutes. *Councilmember Mitchell* seconded the motion. The motion passed unanimously.

VIII - APPROVAL OF MINUTES – NOVEMBER 7, 2022 MINUTES

Councilmember Brock moved to approve the November 7, 2022 council meeting minutes. *Councilmember Mitchell* seconded the motion. The motion passed unanimously.

IX - COUNCIL REPORTS

Councilmember DeDonker

- Would like the Council to take action to address speeding in Twin Maples.
- Would like further discussion on the turtles installed between the lanes on the bottom of Wachusett Road.
- Suggested that the December 19 Council meeting be cancelled.
- Asked for an update on Councilmember Thakur.

Councilmember Mitchell participated in the recent Coffee with the Mayor, which was well attended.

Councilmember Bogen attended the Snohomish County Waste Committee meeting where they discussed recycling and salmon.

Councilmember Brock attended a recent Port of Edmonds meeting to observe their Owl meeting camera and recommended that Woodway consider purchasing that instead of the microphones that were previously suggested. Discussion followed.

X - MAYOR'S REPORT

- Shared information on the recent Coffee with the Mayor. Attendees discussed the Town's budget and speeding in Twin Maples. He then addressed concerns related to speeding in Twin Maples; discussion followed. Mayor Quinn suggested a working session with Council and residents of the neighborhood.

XI - TOWN ADMINISTRATOR'S REPORT

- Mr. Faison and Public Works Director Bryant shared additional comments on speeding in Twin Maples including the location of the speed counters.
- Public Works Director Bryant gave an update on the bioswales in Twin Maples.
- Clerk-Treasurer Napolitano referenced the monthly investment transactions report in the packet.

XII - ORDINANCE 2022-645: 2022 BUDGET AMENDMENT – FIRST READING

Clerk-Treasurer Napolitano and Town Administrator Faison presented Ordinance 2022-645: 2022 Budget Amendment and the accompanying budget summary and forecast. Discussion followed.

XIII - ORDINANCE 2022-646: SALARY SCHEDULE

Clerk-Treasurer Napolitano presented Ordinance 2022-646: Salary Schedule, which makes minor changes to keep the salary schedule consistent with the recently approved 2023 budget. A brief discussion followed.

ACTION:

Councilmember Brock moved to adopt Ordinance 2022-646: Salary Schedule. *Councilmember Mitchell* seconded the motion. The motion passed unanimously.

XIV - AGREEMENT TO RELINQUISH REAL PROPERTY INTEREST – SNOHOMISH COUNTY

Town Administrator Faison shared the language that had changed based on comments made at the previous meeting.

ACTION:

Councilmember DeDonker moved to approve the agreement with Snohomish County to relinquish real property interest substantially in the form attached and authorize the mayor to execute any documents necessary to facilitate the agreement. *Councilmember Mitchell* seconded the motion.

Councilmember DeDonker moved to amend the motion to add a stipulation that, if the property is ever sold, the proceeds will be used to provide health district services. *Councilmember Mitchell* seconded the motion. The Council agreed to the amendment.

The motion to approve the agreement with Snohomish County to relinquish real property interest, provided that, if the property is ever sold, the proceeds will be used to provide health district services, substantially in the form attached and authorize the mayor to execute any documents necessary to facilitate the agreement passed unanimously.

PUBLIC COMMENTS

Resident Diane Cashman commented on bioswales in Twin Maples.

GENERAL COUNCIL DISCUSSION – CHOICE OF SUBJECTS

The consensus of the Council was to cancel the December 19 meeting.

Councilmember Bogen requested that the Council address the speeding/traffic issues in Twin Maples.

Public Works Director Bryant shared that a deer in Town had injured itself and had to be euthanized.

ADJOURNMENT

Councilmember Bogen moved to adjourn the meeting. *Councilmember DeDonker* seconded the motion. The motion passed unanimously. The meeting was adjourned at 7:06 p.m.

Respectfully Submitted,

APPROVED BY THE TOWN COUNCIL

Heidi K. S. Napolitano, Clerk-Treasurer

Michael S. Quinn, Mayor

(These minutes accurately reflect what was said at the Council Meeting. Publication does not vouch for the veracity of these statements.)

Draft

TOWN OF WOODWAY

ORDINANCE 2022-645

AN ORDINANCE OF THE TOWN OF WOODWAY AMENDING THE BUDGET FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; AND AUTHORIZING SUMMARY PUBLICATION BY ORDINANCE TITLE ONLY.

WHEREAS, the Town Council of the Town of Woodway wishes to make an amendment to the Budget to allocate additional expenditure authority from certain funds in order to meet necessary expenditures of money not provided for in the annual budget and not reasonably foreseen at the time of filing the preliminary budget; and

WHEREAS, pursuant to RCW 35A.33.090, five days have elapsed after the introduction of this ordinance, and any taxpayer appearing at the meeting that this ordinance is voted on has been given opportunity to be heard for or against the adoption thereof; and

WHEREAS, pursuant to RCW 82.46.010 (8), the Town Council desires to use Real Estate Excise Tax revenue for the operation of, maintenance of, and service support for, existing capital projects;

NOW, THEREFORE, the Town Council of the Town of Woodway does hereby ordain as follows:

Section 1. The adopted expenditures for the 2022 budget are hereby amended as follows:

Fund	Description	Adopted Expenditures	Amendment	Total Expenditures
001	General	\$2,111,601	\$80,000	\$2,191,601
002	Replacement Reserve	0	25,000	25,000
004	Deposit Fund	0	0	0
107	Affordable Housing Sales Tax Fund	1,700	0	1,700
301	Capital Projects (REET)	835,000	0	835,000
420	Stormwater Utility	155,063	15,000	170,063
Totals		\$3,103,364	\$120,000	\$3,223,364

Section 2. The Stormwater Utility Fund shall transfer \$45,569 to the General Fund to offset work done by the Public Works staff on stormwater system maintenance & repair.

Section 3. The Capital Projects (REET) Fund shall transfer \$320,000 to the General Fund to offset work done by the Public Works staff and other costs related to the operation of, maintenance of, and service support for, existing capital projects.

Section 4. The Capital Projects (REET) Fund shall transfer \$21,843.77 to the General Fund to offset a previous accounting error where General Fund revenue was deposited into the Capital Projects Fund.

Section 5. If any part or portion of this Ordinance is declared invalid for any such reason, such declaration of invalidity shall not affect any remaining portion.

Section 6. This Ordinance shall take effect 5 days after date of publication by ordinance title only.

PASSED this 5th day of December 2022 by the Town Council of the Town of Woodway.

TOWN OF WOODWAY

Michael S. Quinn, Mayor

ATTEST:

Heidi K. S. Napolitano, Clerk-Treasurer

APPROVED AS TO FORM:

Greg Rubstello, Town Attorney

Date Introduced to the Town Council:

Date Passed by the Town Council:

Date Published:

Effective Date:

Town of Woodway | 2022 Budget Amendment

<i>General Fund</i>	2022 Budget	2022 Proj. YE	2023 Proposed		
Beginning Fund Balance	2,055,031	2,055,031	2,437,616	2022	
Revenues	2,402,635	2,560,742	2,236,403	Difference in revenue:	158,107
Expenses	2,111,601	2,178,157	2,434,182	Difference in expenses:	66,556
Ending Fund Balance	2,346,065	2,437,616	2,239,837		
<i>Replacement Reserve Fund</i>	2022 Budget	2022 Proj. YE	2023 Proposed		
Beginning Fund Balance	60,709	60,709	57,019	2022	
Revenues	20,000	20,000	20,000	Difference in revenue:	-
Expenses	-	23,691	10,710	Difference in expenses:	23,691
Ending Fund Balance	80,709	57,019	66,309		
<i>Deposit Fund</i>	2022 Budget	2022 Proj. YE	2023 Proposed		
Beginning Fund Balance	-	-	-	2022	
Revenues	-	-	-	Difference in revenue:	-
Expenses	-	-	-	Difference in expenses:	-
Ending Fund Balance	-	-	-		
<i>Affordable Housing Sales Tax Fund</i>	2022 Budget	2022 Proj. YE	2023 Proposed		
Beginning Fund Balance	2,738	2,738	2,738	2022	
Revenues	1,700	1,700	1,700	Difference in revenue:	-
Expenses	1,700	1,700	1,700	Difference in expenses:	-
Ending Fund Balance	2,738	2,738	2,738		
<i>Capital Projects Fund (REET)</i>	2022 Budget	2022 Proj. YE	2023 Proposed		
Beginning Fund Balance	870,932	870,932	462,079	2022	
Revenues	200,000	193,410	120,000	Difference in revenue:	(6,590)
Expenses	835,000	602,264	268,436	Difference in expenses:	(232,736)
Ending Fund Balance	235,932	462,079	313,643		
<i>Stormwater Utility Fund</i>	2022 Budget	2022 Proj. YE	2023 Proposed		
Beginning Fund Balance	79,624	79,624	9,365	2022	
Revenues	80,000	95,832	172,000	Difference in revenue:	15,832
Expenses	155,063	166,091	153,878	Difference in expenses:	11,028
Ending Fund Balance	4,561	9,365	27,487		

Town of Woodway
2022 Budget Amendment Financial Forecast
12/5/2022

Operating Funds	2020	2021	2022	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Beginning Balances	\$ 1,727,103	\$ 1,647,164	\$ 2,115,740	\$ 2,115,740	\$ 2,494,635	\$ 2,306,146	\$ 2,095,582	\$ 1,770,382	\$ 1,384,495	\$ 866,524	\$ 300,913	\$ (375,097)	\$ (1,113,940)	\$ (1,935,653)	\$ (2,804,381)

Operating Funds	2020	2021	2022 Budget	2022 Projected	2023 Proposed	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Revenues	\$ 2,124,552	\$ 2,615,315	\$ 2,422,635	\$ 2,580,742	\$ 2,256,403	\$ 2,092,574	\$ 2,042,787	\$ 2,032,947	\$ 2,016,128	\$ 2,028,941	\$ 2,041,242	\$ 2,058,429	\$ 2,082,222	\$ 2,106,515	\$ 2,131,313
Expenses	\$ 2,204,491	\$ 2,146,739	\$ 2,111,601	\$ 2,201,848	\$ 2,444,892	\$ 2,303,138	\$ 2,367,987	\$ 2,418,833	\$ 2,534,099	\$ 2,594,552	\$ 2,717,251	\$ 2,797,272	\$ 2,903,935	\$ 2,975,243	\$ 3,120,034

**AMENDMENT NO. 1 TO THE
AGREEMENT FOR PROSECUTION SERVICES
BETWEEN THE TOWN OF WOODWAY AND
ZACHOR, STOCK, & KREPPS, INC., P.S.**

THIS AMENDMENT No. 1 (“Amendment”) is made and entered into as of the date set forth below between the Town of Woodway (hereinafter referred to as “Town”), a Washington Municipal Corporation, and Zachor, Stock, & Krepps, Inc., P.S., an independent contractor (hereinafter referred to as “Service Provider”) (collectively “the Parties”).

RECITALS

- A. The Parties entered into an agreement dated July 7, 2022 (“the Agreement”), under which the Service Provider agreed to provide certain prosecution services to the Town of Woodway in exchange for payment of a specified monthly sum.
- B. Section 4 of the Agreement provides that the term of the Agreement will be from the effective date through December 31, 2022.
- C. The Parties agree to a one-year extension of the Agreement, with all of the terms of the Agreement remaining in place through December 31, 2023.
- D. The Parties therefore desire to amend the Agreement to clarify this change to its terms.

NOW, THEREFORE, in consideration of the mutual benefits herein contained, the Parties hereby agree as follows:

- 1. Section 4 of the Agreement is hereby amended to read as follows:

Duration of Work. Service Provider shall perform the services described in Attachment A through December 31, 2023.

- 2. All other terms of the Agreement shall remain in full force and effect except as amended by this Amendment. If a conflict arises between the terms of this Amendment and the Agreement, the terms of this Amendment shall control.

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the day and year written below.

EXECUTED this ____ day of December, 2022.

TOWN OF WOODWAY

By: _____
Michael S. Quinn, Mayor

SERVICE PROVIDER

By:  _____ 11/26/2022
James Zachor
President

TOWN CONTACT

Eric A. Faison, Town Administrator
Town of Woodway
23920 113th Place W.
Woodway, WA 98020
Phone: (206) 542-4443

SERVICE PROVIDER CONTACT

James Zachor
Zachor, Stock, & Krepps, Inc., P.S.
23607 Hwy 99, Ste 1D
Edmonds, WA 98026
T: (425) 778-2429

ATTEST/AUTHENTICATED

By: _____
Heidi K. S. Napolitano, Clerk-Treasurer

APPROVED AS TO FORM

By: _____
Greg Rubstello, Town Attorney

MEMORANDUM

To: Mayor Quinn and Council members
From: Bill Trimm, FAICP
Date: November 30, 2022
Subject: Consideration of Accessory Dwelling Units in 2024 Comprehensive Plan and Development Regulations Update

As you know, the Planning Commission is in the process of updating the Town's comprehensive plan and development regulations, pursuant to the periodic update schedule set out in the Growth Management Act (GMA). The required update is to ensure that all jurisdictions comply with new legislative amendments to GMA. One significant update upon which I need Council direction relates to accessory dwelling units (ADUs).

Current state law requires all GMA planning jurisdictions of 20,000 or more to allow ADUs in their single-family zones. (RCW 36.70a.400) Woodway's official 2022 population is 1,330. As a result, the Town is exempt from this requirement.

However, the state recently amended the GMA's housing goal. Specifically, the amendment requires all jurisdictions to *"plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock."*

To implement the new requirement that cities "plan for and accommodate" affordable housing, the housing goal amendment encourages the provision of different types of housing. The listed types of housing include single family units, multiple family units, and accessory dwelling units. The current Woodway code allows a guest house/caretaker's cottage as a secondary use in the R-87 and R-43 zone districts and prohibits the rental of such units.

The Town's Point Wells Subarea Plan and zoning district provides for single family units, multiple family units, and accessory dwelling units. But Point Wells is not within the Town's jurisdictional boundaries. The current comprehensive plan and zoning within the Town does not allow multiple family or accessory dwelling units.

As the Planning Commission begins the process of updating the housing element and related development regulations, I am seeking direction from Council to accommodate the new requirements in the updated Comprehensive Plan.

Please consider using this sample motion: I move to direct the Planning Commission to consider various options to "plan for and accommodate" affordable housing, including a potential amendment providing for the development and rental of ADUs.



Interagency Agreement with

Town of Woodway

through

Growth Management Services

**Contract Number:
23-63210-085**

For

GMA Periodic Update Grant – FY2023

Dated: Date of Execution

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Face Sheet

Contract Number: 23-63210-085

Local Government Division Growth Management Services

1. Contractor Town of Woodway 23920 113th Place W Woodway, WA 98020		2. Contractor Doing Business As (as applicable) N/A	
3. Contractor Representative Heidi Napolitano Clerk – Treasurer 206-542-4443 Heidi@townofwoodway.com		4. COMMERCE Representative Valerie Smith Deputy Managing Director (360) 725-3062 valerie.smith@commerce.wa.gov	
5. Contract Amount \$50,000	6. Funding Source Federal: <input type="checkbox"/> State: <input checked="" type="checkbox"/> Other: <input type="checkbox"/> N/A: <input type="checkbox"/>		7. Start Date Date of Execution
8. End Date June 30, 2023			
9. Federal Funds (as applicable) N/A		Federal Agency: N/A	
ALN N/A			
10. Tax ID # N/A	11. SWV # SWV0028715-00	12. UBI # 312-003-932	13. UEI # N/A
14. Contract Purpose Grant funding to assist the Town of Woodway with planning work for the completion the Growth Management Act (GMA) requirement to review, and if needed, revise the comprehensive plan and development regulations under RCW 36.70A.130(5).			
COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents incorporated by reference: Contractor Terms and Conditions including Attachment “A” – Scope of Work and Attachment B - Budget			
FOR CONTRACTOR <hr/> Eric Faison, Town Administrator Town of Woodway <hr/> Date		FOR COMMERCE <hr/> Mark K. Barkley, Assistant Director Local Government Division <hr/> Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE	

Special Terms and Conditions

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by Chapter 39.34 RCW.

2. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

3. COMPENSATION

COMMERCE shall pay an amount not to exceed fifty thousand dollars (\$50,000), for the performance of all things necessary for or incidental to the performance of work under this Contract as set forth in the Scope of Work.

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Contractor upon acceptance of services and deliverables provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE not more often than monthly nor less than quarterly.

The parties agree this is a performance-based contract intended to produce the deliverables identified in Scope of Work (Attachment A). Payment of any invoice shall be dependent upon COMMERCE'S acceptance of Contractor's performance and/or deliverable. The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number 23-63210-085. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

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

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

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Grant Start Date

COMMERCE will pay the Contractor for costs incurred beginning July 1, 2022, for services and deliverables described under this Agreement.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

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

COMMERCE may, in its sole discretion, withhold ten percent (10%) from each payment until acceptance by COMMERCE of the final report (or completion of the project, etc.).

Line Item Transfers

The total amount of transfers of funds between line item budget categories shall not exceed ten percent (10%) of the total budget. If the cumulative amount of these transfers exceeds or is expected to exceed ten percent, the total budget shall be subject to justification and negotiation of a contracts amendment by the Contractor and COMMERCE.

Ineligible Costs

Only eligible project-related costs will be reimbursed. Ineligible costs include, but are not necessarily limited to: capital expenses, such as land acquisition or construction costs; purchase of machinery; hosting expenses, such as meals, lodging, or transportation incurred by persons other than staff and volunteers working directly on the project; lobbying or political influencing; and other costs which are not directly related to the project.

5. SUBCONTRACTOR DATA COLLECTION

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

6. INSURANCE

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

7. FRAUD AND OTHER LOSS REPORTING

Contractor shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Contract immediately or as soon as practicable to the Commerce Representative identified on the Face Sheet.

8. ORDER OF PRECEDENCE

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

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget

General Terms and Conditions

1. DEFINITIONS

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

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Washington Department of Commerce.
- C. "Contract" or "Agreement" or "Grant" means the entire written agreement between COMMERCE and the Contractor, including any Attachments, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Contractor" or "Grantee" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- F. "State" shall mean the state of Washington.
- G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

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

3. AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4. ASSIGNMENT

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

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
 - i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and

iii. All Personal Information in the possession of the Contractor that may not be disclosed under state or federal law.

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

6. COPYRIGHT

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

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

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

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

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority

prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents

10. LICENSING, ACCREDITATION AND REGISTRATION

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

11. RECAPTURE

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

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

12. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

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

13. SAVINGS

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

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

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

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

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

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

16. SURVIVAL

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

17. TERMINATION FOR CAUSE

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

In the event of termination or suspension, the Contractor shall be liable for damages as authorized by law 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, e.g., cost of the competitive bidding, mailing, advertising and staff time.

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

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

18. TERMINATION FOR CONVENIENCE

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

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMERCE, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

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

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

- A. Stop work under the contract on the date, and to the extent specified, in the notice;
- B. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
- C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;
- F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which COMMERCE has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

- A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.
- B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management

practices.

- C.** If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.
- D.** The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract.
- E.** All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

21. WAIVER

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

Attachment A: Scope of Work

Tasks / Actions / Deliverables	Description	End Date
Task 1	Completion of Commerce Periodic Update Checklist for Fully Planned Cities	
Action(s)	Prepare and complete grant application	August 2022
Action(s)	Land Use Element: Checklist review and notes	August 2022
Action(s)	Housing, Transportation, Capital Facilities / Utilities, SMP: Checklist review and notes	August 2022
Action(s)	Critical Areas, Subdivision, other development regulations: Checklist review and notes	August 2022
Deliverable 1	Commerce Periodic Update Checklist for PC review	August 31, 2022
Task 2	Planning Commission Orientation and work program	
Action(s)	Describe various tasks and general timelines for PC review	September 2022
Action(s)	Discuss Land Use Element Issues	September 2022
Deliverable 2	Memorandum and Timeline for PC review	September 30, 2022
Task 3	Land Use Element Revisions	
Action(s)	Discuss revisions to Land Use Element with PC per notes in Checklist. Prepare draft LU element for PC review	October 2022
Deliverable 3	Draft Revised Land Use Element	November 2022
Task 4	Housing Element Revision	
Action(s)	Discuss Housing Element Issues	November 2022
Action(s)	Discuss revisions to Housing Element with PC per notes in Checklist. Prepare draft Housing Element for PC Review	January 2023
Deliverable 4	Draft revised Housing Element goals and policies	February 28, 2023

Task 5	Transportation Element Revision	
Action(s)	Discuss Transportation Element Issues	February 2023
Action(s)	Work with public works and PACE Engineers to review and update inventory, LOS, financing plan. Prepare draft Transportation Element revisions for PC review	March/April 2023
Deliverable 5	Draft Transportation Element for PC Review	May 31, 2023
Task 6	Capital Facilities and Utilities Element	
Action(s)	Discuss revisions to CF/U Element with public works, Pace Engineers PC per checklist notes	May 2023
Actions(s)	Staff review of Comp Plan update to-date, chapters 1 through 6.	May 2023
Deliverable 6	Draft Capital Facilities/Utilities Element for PC Review	June 30, 2023

Attachment B: Budget

SFY 2023 Task/Deliverable	SFY 2023 Amount
Deliverable 1	\$5,000
Deliverable 2	\$2,500
Deliverable 3	\$13,000
Deliverable 4	\$8,000
Deliverable 5	\$12,000
Deliverable 6	\$9,500
Total Grant (SFY 2023 only)	\$50,000

TOWN OF WOODWAY

RESOLUTION 2022-444

A RESOLUTION OF THE TOWN OF WOODWAY PROVIDING FOR PAYMENT OF CLAIMS OUTSIDE OF A COUNCIL MEETING

WHEREAS, the Town Council occasionally cancels a regular Council meeting; and

WHEREAS, invoices that would have been reviewed and approved at the cancelled meeting still need to be paid; and

WHEREAS, it is occasionally advantageous to pay an invoice before the next Council meeting.

NOW, THEREFORE, the Town Council of the Town of Woodway does hereby resolve as follows:

Section 1. When a Town Council meeting is cancelled, the following procedure will govern how claims will be paid.

1. The Clerk's office will prepare the claims for payment as usual.
2. The Clerk-Treasurer or designee will circulate the claims approval page and list of claims details to the Mayor, Council, and Town Administrator.
3. The Clerk's office will allow a few days for questions/comments before mailing the checks and making any electronic payments.
4. The claims approval page will be included on the agenda for the next Council meeting. The Council will ratify the previously approved claims at that meeting.

Section 2. When the Town will receive a benefit for paying an invoice before the next Council meeting, such as when an early-payment discount is offered or if a late fee would be due if the invoice waited to be paid, the Clerk's office is authorized to pay the invoice ahead of the meeting. The claim will be included as part of the next set of claims to be reviewed by the Council.

PASSED this 5th day of December 2022 by the Town Council of the Town of Woodway.

TOWN OF WOODWAY

Michael S. Quinn, Mayor

ATTEST:

Heidi K. S. Napolitano, Clerk-Treasurer