

Memorandum of Agreement Between
City of Bellingham and Whatcom County
Regarding their Commitment to Incarceration Reduction and Prevention

This Memorandum of Agreement (hereinafter, Agreement) by and between the City of Bellingham (hereinafter, the City) and Whatcom County (hereinafter, the County) (collectively referred to as "the Parties") is entered into for the purposes of recognizing the commitment of both Parties to commit a portion of the anticipated public safety tax (as per RCW 82.14.450), to incarceration reduction and prevention programs.

WHEREAS, the Whatcom County Council, pursuant to the passage of Resolution 2017-031, has authorized and approved the Whatcom County Executive to enter into a long-term agreement in the form of the Jail Facility Financing and Use Agreement (JFFUA), with the Whatcom County cities to share in the costs of the construction and ongoing operating costs of a new jail and jail-related facilities that serve the future needs of their city and county inmates with the proceeds of a sales and use tax; and

WHEREAS, the Parties of the JFFUA, recognize and fully support the goals of the Incarceration Prevention and Reduction Task Force ("IPRTF"), established through Ordinance 2015-025, to reduce incarceration and recidivism. The IPRTF is charged with continually reviewing Whatcom County's criminal justice and behavioral health programs and making specific recommendations to safely and effectively reduce incarceration of individuals struggling with mental illness and chemical dependency, and minimize jail utilization by pretrial defendants who can safely be released. This may include programs such as Alternative Jail programs, Electronic Home Monitoring Detention, Work Release and Work Crew programs, Mental Health Court, Drug Court, the establishment of a County pretrial supervision program, and the expansion of the Crisis Triage Facility, or others as identified by the Parties; and

WHEREAS, prior to the City of Bellingham signing the JFFUA, the City of Bellingham Council sent Whatcom County Council a letter conveying the City Council's areas of concern regarding the County's jail plan. Based on this letter and discussions at the June 27, 2017 County Council meeting, the Whatcom County Council amended and introduced an Ordinance 2017- _____ providing for the submission of a ballot measure to the qualified voters of the County a proposition authorizing a public safety sales tax, as authorized by RCW 82.14.450; and

WHEREAS, the amendments to the ballot measure Ordinance included changes reinforcing the Whatcom County Council's financial commitment to public safety and support of the goals of the IPRTF as outlined here;

1. The Whatcom County Council urges the Cities of Whatcom County to continue to fund incarceration prevention programs.

2. The Whatcom County Council requested the City of Bellingham to commit at least 25% annually (projected at \$255,632 in 2019) of the City's net sales tax revenue that is in excess of the City's obligation for the capital cost of the new jail, to fund these programs.
3. Whatcom County is not projected, in the first few years, to receive net sales tax revenue, in excess of Whatcom County's portion of the capital cost. The Whatcom County Council commits to use this net sales tax revenue or other legitimate funding sources on a dollar for dollar match of the City of Bellingham's contribution, up to an annual amount of 25% of the County's net sales tax revenue or \$300,000, whichever is greater.
4. If both jurisdictions commit to this funding, this amount would be projected to be \$30,193,628 over 30 years, and shall continue until repayment of the total capital cost of jail facilities, or December 31, 2048, whichever occurs first.
5. This commitment is intended to accomplish the continued implementation of the criminal justice and behavioral health programs recommended by the IPRTF.
6. The net sales tax revenue, as described in this Agreement, refers to revenue in excess of capital cost of the new jail from the public safety sales tax, if and as adopted through Ordinance 2017-____; and

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

As envisioned in Ordinance 2017-____, the Parties agree to recognize and fully support the goals of the Incarceration Prevention and Reduction Task Force, established through Ordinance 2015-025 by committing to the following:

- A. City of Bellingham shall use at least 25% annually (projected at \$255,632 in 2019) of the City's net public safety sales tax revenue, in excess of the City's obligation for the capital cost of the new jail, to fund these new or expanded incarceration prevention and reduction programs.
- B. Whatcom County Council shall use public safety sales tax revenue or other legitimate funding sources on a dollar for dollar match, up to an annual amount of 25% of the County's net sales tax revenue or \$300,000, whichever is greater, to fund these new or expanded incarceration and reduction programs.
- C. These funding commitments are made with the understanding that, due to accounting and budgetary procedures, actual expenditures may be realized, recorded, and carried over across fiscal years.
- D. Both Parties commit to this funding, the amount of which is projected to be \$30,193,628 over 30 years, and shall continue until repayment of the total capital cost of the jail facilities, or December 31, 2048, whichever occurs first.
- E. The Parties hereto agree that each is an independent entity operating pursuant to the terms and conditions of this agreement and shall work collaboratively to develop and define the appropriate oversight model for the timing, distribution and legislative

compliance of the financial commitment. The Parties shall also work to update the JFFUA to include language similar to what is contained in this agreement.

EFFECTIVE DATE AND DURATION OF AGREEMENT

This Agreement shall be effective only upon its execution, following an affirmative vote of both the City Council and the County Council approving this Agreement and conditioned upon the approval of the voters of Whatcom County at the General Election in November of 2017 of the Public Safety Tax measure passing, authorized by Ordinance 2017-_____. This Agreement shall remain in effect until the obligations and terms set forth above are satisfied, unless otherwise mutually agreed upon in writing by both parties.

EXECUTED this _____ day of _____, 2017 for the **CITY OF BELLINGHAM:**

By: _____
Kelli Linville, Mayor

Attest:

Finance Director

Approved as to form:

Office of the City Attorney

EXECUTED this _____ day of _____, 2017 for **WHATCOM COUNTY:**

By: _____
Jack Louws, County Executive

Approved as to Form:

Daniel L. Gibson, Chief Civil Deputy
Prosecuting Attorney For Whatcom County