

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:		6/29/2017		7/11/2017	SCOTW
Division Head:					
Dept. Head:	<i>[Signature]</i>	6.29.17			
Prosecutor:					
Purchasing/Budget:					
Executive:					

TITLE OF DOCUMENT:

Draft memorandum of Agreement with City Of Bellingham regarding Jail

ATTACHMENTS:

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

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

Draft memorandum of Agreement with City Of Bellingham regarding Jail

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:

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

**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 re-enforcing 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 agrees to commit to use at least 25% annually (projected at \$255,632 in 2019) of the City's net 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 agrees to commit to use 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. 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.
- D. 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

DISCLAIMER: This document is a draft and is provided as a courtesy. This document is not to be considered as the final minutes. All information contained herein is subject to change upon further review and approval by the Whatcom County Council.

WHATCOM COUNTY COUNCIL
Special Committee of the Whole

June 27, 2017

CALL TO ORDER

Council Chair Barry Buchanan called the meeting to order at 2:35 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Ken Mann, Satpal Sidhu, Carl Weimer, Todd Donovan, Rud Browne and Barry Buchanan.

Absent: None.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Donovan (7)

Nays: None (0)

COMMITTEE DISCUSSION

1. DISCUSSION OF A LETTER RECEIVED FROM THE CITY OF BELLINGHAM REGARDING THE PROPOSED NEW WHATCOM COUNTY JAIL (AB2017-185B)

Scott Korthuis, Lynden Mayor, spoke on behalf of the small city mayors and stated they support the proposed jail facility financial use agreement (JFFUA). Put the jail funding request to the voters.

Mike Lilliquist, Bellingham City Council President, referenced the letter from the City Council beginning on packet page 275 and stated the City Council has many concerns and would like the focus to be on how to reduce incarceration and recidivism. He read through and addressed the concerns described in the letter. Commit to funding jail alternatives recommended by the Incarceration Prevention and Reduction Task Force and the VERA Institute.

Councilmembers and Lilliquist spoke about:

- The Incarceration Prevention & Reduction Task Force Phase 3 report is not due until after the November election.
- Creating an interlocal agreement among the County and small cities to commit to funding the IPRTF and VERA Institute recommendations and other jail reduction efforts.
- Crediting the County for past commitments to prioritize behavioral health and other medical issues, such as the mental health tax.
- The specificity of the JFFUA as a requirement for the bond market.
- Whether the County is doing enough work on jail diversion programs.
- Whether the best location is at the LaBounty Road location or downtown.

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2 Browne submitted and spoke about a substitute ordinance submitting the proposition
3 to the County voters (*on file*).
4

5 Councilmembers continued to discuss:

- 6 • Options for funding behavioral health and jail alternative programs.
- 7 • All the factors that impact jail population and that over which the County has
8 no control
- 9 • The features they need in a new jail
- 10 • Jail operating costs
- 11 • The appropriate jail site.
- 12

13 Lilliquist spoke about the substitute ordinance submitting the proposition to the
14 County voters from Councilmember Browne.
15

16 The following staff answered questions:

- 17 • Jack Louws, County Executive
- 18 • Tyler Schroeder, Executive's Office
- 19

20 Councilmembers continued to discuss the timing for adopting the JFFUA and the
21 ordinance approving the ballot proposition, Councilmember Browne's draft response to the
22 City Council's letter, the possibility of scheduling a special joint meeting of the Bellingham
23 City Council and County Council.
24

25 John Mutchler, Ferndale Mayor, spoke about the City's challenges with the County
26 jail and his support of the JFFUA and a proposed new jail.
27

28 Councilmembers continued to discuss prevention efforts, committing to behavioral
29 health funding in a separate agreement outside of the JFFUA and the County's annual
30 contribution.
31

32 Joy Gilfilen spoke about options if the voters don't approve the ballot proposition and
33 taking people out of the criminal justice system. Implement alternatives and then evaluate
34 results before building a new jail.
35

36 ***Browne moved*** to introduce the substitute ordinance at the evening meeting, with
37 amendments as discussed.
38

39 The motion was seconded.
40

41 The motion carried by the following vote:

42 **Ayes:** Brenner, Sidhu, Browne, Buchanan, and Weimer (5)

43 **Nays:** Mann and Donovan (2)
44

45 Forrest Longman, Council Legislative Analyst, spoke about what to expect from the
46 VERA Institute consultants on July 11. They will not suggest an appropriate jail capacity.
47 They will provide information on jail use and....
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49
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OTHER BUSINESS

There was no other business.

ADJOURN

The meeting adjourned at 4:02 p.m.

The Council approved these minutes on _____, 2017.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Barry Buchanan, Council Chair

Jill Nixon, Minutes Transcription