

**BEFORE THE BOARD OF COMMISSIONERS  
PACIFIC COUNTY, WASHINGTON  
1216 W. Robert Bush Drive  
South Bend, Washington**

**June 20, 2016  
11:00AM or as soon thereafter as possible**

**Continued Meeting  
AGENDA**

All matters listed within the Consent Agenda have been distributed to each County Commissioner for review and are considered routine. Consent Agenda items will be approved by one motion of the Board of County Commissioners with no separate discussion. If separate discussion is desired on a certain item, that item may be removed from the Consent Agenda at the request of a Commissioner, for action later.

**WORKSHOPS/MEETINGS** *(held in the Commissioners Conference Room unless otherwise noted)*  
12:00 PM Departmental Briefings

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**Call to Order**

**Public Comment** *(limited to three minutes per person)*

**ITEMS REGARDING DEPARTMENT OF PUBLIC WORKS**

- 1) Consider approval of Maintenance and Operation Contract with the Chinook Indian Nation for the Bush Pioneer County Park host
- 2) Consider award of the 2016 Safety Guardrail Project

**EXECUTIVE SESSION**

- 3) To discuss anticipated litigation, pending litigation or any matter suitable for Executive Session under RCW 42.30.110

*The Board may add and take action on other items not listed on this agenda and order of action is subject to change.*

*The hearing facility is "barrier free" and accessible by those with physical disabilities. Aids will be provided upon request for those with language/speaking or hearing impediments, but requests need to be received at least five (5) business days prior to this hearing. Such requests may be filed in person at the Commissioners' Office at the address noted above or at 360/875-9337.*



Board of Pacific County Commissioners  
P O Box 187 \* 1216 W Robert Bush Dr \* South Bend, WA  
98586 Phone 360/875.9337 \* Fax 360/875.9335

Meetings are held the 2nd  
and 4th Tuesday of each  
month, beginning at 9 a.m.

REQUESTED MEETING DATE:

JUNE 21, 2016

## AGENDA REQUEST FORM

TO BE COMPLETED BY CLERK OF THE BOARD / DEPUTY CLERK OF THE BOARD

Agenda Item #: 1

BOCC ACTION: ☐ APPROVED ☐ DENIED

Initial: \_\_\_\_\_ Date: \_\_\_\_\_

☐ SUBJECT TO ADEQUATE BUDGET APPROPRIATIONS

☐ NO ACTION TAKEN/WITHDRAWN

☐ DEFERRED TO: \_\_\_\_\_

Review ☐ Clerk of the Board

☐ CONTINUED TO DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

☐ Risk Mgmt

☐ OTHER: \_\_\_\_\_

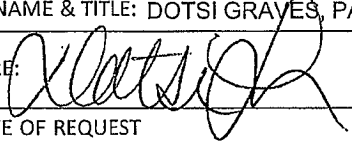
☐ Legal Required

### DISTRIBUTION LIST:

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|                              | <input type="checkbox"/> Civil Service | <input type="checkbox"/> Health   | <input type="checkbox"/> SDC        | <input type="checkbox"/> WSU Ext.       |
|                              | <input type="checkbox"/> DCD           | <input type="checkbox"/> Juvenile | <input type="checkbox"/> Sheriff    | <input type="checkbox"/> Other          |

### AGENDA ITEM REQUEST

Please fill out in full or the request may be returned for more information. Also, please attach all pertinent documentation.

DEPARTMENT/OFFICE: DEPT OF PUBLIC WORKS	DIVISION (if applicable): PARKS
OFFICIAL NAME & TITLE: DOTSI GRAVES, PARKS MANAGER	PHONE / EXT: EXT 2288
SIGNATURE: 	DATE: JUNE 13, 2016
NARRATIVE OF REQUEST The Parks Department advertised and received one applicant for the Bush Pioneer Park Hosting position. The Parks Department requests the Boards' approval and signature of the 2016 Bush Pioneer Park Maintenance and Operation Contract with the Chinook Indian Nation.	
RECOMMENDED MOTION (To Be Completed by the Clerk/Deputy Clerk of the Board) Approve the Bush Pioneer County Park Maintenance & Operation Contract with the Chinook Indian Nation, effective June 1, 2016 through November 30, 2016	

## **2016 BUSH PIONEER MAINTENANCE AND OPERATION CONTRACT**

THIS CONTRACT, made and entered into this day between THE CHINOOK INDIAN NATION, hereinafter called the CONTACTOR, and the County of Pacific, a municipal corporation of the State of Washington, hereafter called the COUNTY.

WITNESSETH: WHEREAS, the COUNTY desires to have certain park maintenance and operation services performed and the CONTRACTOR has the necessary skills and capabilities and experience to perform said park maintenance and operation services, as set forth below:

NOW THEREFORE, in consideration of the terms, conditions and performance contained herein, the parties hereto agree as follows:

1. The park maintenance and operation site shall be **BUSH PIONEER PARK**.
2. The CONTRACTOR shall have the park available for use by the general public between the hours of 6 AM and 10 PM, beginning June 1, 2016 through November 30, 2016, inclusive. Agreements for long-term use of the facilities in excess of three (3) weeks shall require prior approval of the COUNTY.
3. The CONTRACTOR shall make a thorough inspection of the grounds in the morning and the evening to inspect and remove any danger to the public. The fee paying user will be allowed entrance and exit from the park during hours of closure to the general public. The CONTRACTOR shall have an after-hour phone number for the fee paying user to call in the case of an emergency or the need to leave the park during the hours the park is closed to the general public.
4. The park fees shall be established or revised by resolution of the Board of Pacific County Commissioners (presently Resolution No. 2015-015, adopted April 14, 2015). The CONTACTOR shall collect fees and applicable taxes. Said fees collected by the CONTRACTOR shall be retained by the CONTRACTOR and shall constitute partial payment to the CONTRACTOR for services provided. CONTRACTOR further understands and agrees to forward the taxes collected to the appropriate parties at the appropriate times.
5. The fiscal records of such collections and disbursements will be kept by the CONTRACTOR, and reported monthly on the attached form (Attachment A) to the Parks Manager. A numbered receipting system shall be provided by the CONTRACTOR and used to receipt all camping fees. This system shall consist of a three-part receipt with the original copy to the customer, the second copy is to accompany the monthly report sent to the COUNTY, and the third copy to be retained by the CONTRACTOR.

6. The COUNTY will provide a space at the park residence site for the location of a recreation vehicle for the CONTRACTOR. The COUNTY will provide electrical power, water, sewer and garbage disposal services to the site.
7. In addition to the fees collected (referenced in Paragraph Four above), the COUNTY will pay a hosting fee of \$1,800 (One Thousand Eight Hundred Dollars) for the CONTRACT period to the CONTRACTOR in six payments. The first installment in the amount of \$300 (Three Hundred Dollars) will be paid by the 15<sup>th</sup> day of July, 2016. There will be five additional installments paid for the months of July, August, September, October and November. The COUNTY will also pay up to \$900 (Nine Hundred Dollars) upon the renewal of insurance policy.
8. No structures shall be erected on the premises, and no residence will be permitted, without prior approval of the COUNTY. The CONTRACTOR shall bear all costs associated with placement and/or removal of CONTRACTOR'S facility.
9. The CONTRACTOR shall provide janitorial/custodial services to include cleaning of toilets, showers, sinks, floors, emptying trash, refilling soap and toilet paper for park restrooms and portable toilets. More frequent services shall be provided on an as-needed basis.
10. The CONTRACTOR shall provide all general maintenance and upkeep of the park grounds, equipment and facilities on a daily basis, to include, but not limited to, litter pick up and clean up. CONTRACTOR shall provide mowing of the park grounds with the lawn mower provided by the COUNTY, on a bi-weekly basis.
11. The COUNTY reserves the right to determine whether or not repairs and maintenance, other than general maintenance duties described above, shall be performed and the right to schedule such repairs and maintenance. Maintenance by the COUNTY or a contractor, such as plumber, electrician, tree faller, arborist, etc., as hired by the COUNTY, will be performed at the convenience of the COUNTY, and the COUNTY shall not be held liable for any losses of any nature by the CONTRACTOR or other affected parties.
12. During the period of this CONTRACT, the CONTRACTOR will provide reasonable watchman security services during the period when the park is not open to the general public for overnight use. Services will include monitoring entry in to the park, enforcement of posted park rules, notifying law enforcement when necessary, etc.
13. The COUNTY agrees to provide all necessary operating supplies for the restrooms, supplied at COUNTY'S sole cost and expense.
14. Electric power, water, sewer and garbage disposal services shall be provided by the COUNTY for park operations. No other utility services shall be provided.

15. The parties mutually understand and agree that the COUNTY shall make no deductions on the account of taxes and the CONTRACTOR further understands and agrees that the responsibility for payment of taxes remains with the CONTRACTOR. It is further understood that the CONTRACTOR is not entitled to medical insurance, retirement benefits, workers compensation or any other incidents of employment from the COUNTY because no employee/employer relationship exists.
16. This CONTRACT shall commence on June 1, 2016 and terminate November 30, 2016. Either party shall have the right of cancellation or termination of this CONTRACT with or without reason, by serving notice on the other party by certified mail, of such intent to cancel or terminate this entire CONTRACT at least thirty (30) days prior to any such proposed cancellation or termination date; such cancellation or termination to be without recourse except for any sums owing to either party at the end of cancellation or termination. The CONTRACTOR shall be solely responsible for removing all their personal property from the park grounds within thirty (30) days of the notification of cancellation or termination of this CONTRACT. If said personal property has not been removed within the time specified, the COUNTY shall have said property removed and the CONTRACTOR shall be solely responsible for bearing all costs involved.

Should criminal charges be filed in a jurisdictional court against an employee or agent of the CONTRACTOR, this CONTRACT may be terminated, and all personal property of the CONTRACTOR must be removed within three (3) days.

17. It is mutually understood and agreed between the parties hereto that this CONTRACT does not create an employee/employer relationship and that the COUNTY assumes no liability for the independent CONTRACTOR and that in all of the activities pursuant to this CONTRACT, THE CHINOOK INDIAN NATION is, and shall be, an independent CONTRATOR under the laws of the State of Washington.
18. The CONTRACTOR shall not subcontract any part of the work to be performed under this CONTRACT or assign this CONTRACT without the specific written permission of the COUNTY.
19. The CONTRACTOR shall not allow property owned by the COUNTY to be removed from the premises. This includes, but is not limited to, any fallen trees located within the park. Brush and downed limbs are acceptable for camper's usage, no cutting of limbs from trees shall be allowed.

20. This Agreement and all public records associated with this Agreement shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the CONTRACTOR are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the CONTRACTOR agrees to make them promptly available to the COUNTY. If the CONTRACTOR considers any portion of any record provided to the COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the CONTRACTOR shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the CONTRACTOR and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY'S sole obligations shall be to notify the CONTRACTOR (a) of the request; and (b) of the date that such information will be released to the requestor unless the CONTRACTOR obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the CONTRACTOR fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.

The COUNTY has, and by this section assumes, no obligation on behalf of the CONTRACTOR to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the CONTRACTOR for releasing records not clearly identified by the CONTRACTOR as confidential or proprietary. The COUNTY shall not be liable to the CONTRACTOR for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

21. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other material created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the CONTRACTOR or the CONTRACTOR'S subcontractors or consultants for delivery to the COUNTY under this Agreement shall be the sole and absolute property of the COUNTY. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the COUNTY at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent and register, and the ability to transfer these rights. Material which the CONTRACTOR uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the COUNTY is owned by the CONTRACTOR and is not "work made for hire" within the terms of this Agreement.

22. If either party files suit to enforce this CONTRACT, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorneys' fees and costs of suit.

A. Disputes. Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this CONTRACT, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due CONTRACTOR shall be decided by the COUNTY'S CONTRACT representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S CONTRACT representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to Choice of Law, Jurisdiction and Venue.

B. Choice of Law, Jurisdiction and Venue. This CONTRACT has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this CONTRACT shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

Any action at law, suit in equity, or judicial proceeding arising out of this CONTRACT shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

C. Severability. If a court of competent jurisdiction holds any part, term or provision of this CONTRACT to be illegal or invalid in whole or in part, the validity of the remaining provisions shall not be affected and the parties' rights and obligations shall be construed and enforced as if the CONTRACT did not contain the particular provision held to be invalid.

If any provision of this CONTRACT is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

Should the COUNTY determine that the severed portions substantially alter this CONTRACT so that the original intent and purpose of the CONTRACT no longer exists, the COUNTY may, in its sole discretion, terminate this CONTRACT.

D. The CONTRACTOR waives any sovereign immunity to the COUNTY for claims and damages arising out of this CONTRACT.

## 23. LIABILITY

Without limiting the CONTRACTOR'S indemnification of COUNTY, and prior to commencement of this CONTRACT, CONTRACTOR shall obtain, provide and maintain during the term of this CONTRACT, policies or insurance of the type and amounts described below and in a form satisfactory to the COUNTY.

- A. General Liability Insurance: CONTRACTOR shall maintain commercial general liability insurance with at least as broad as Insurance Services Office form CG 00 0, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.
- B. Professional Liability (Errors & Omissions) Insurance: CONTRACTOR shall maintain professional liability insurance that covers the services to be performed in connection with this CONTRACT, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date, must be before the effective date of this CONTRACT and CONTRACTOR agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this CONTRACT.
- C. Worker's Compensation Insurance: CONTRACTOR shall, at its own expense, maintain Worker's Compensation Insurance (statutory limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).
- D. Waiver of Subrogation: All insurance coverage maintained or procured pursuant to this CONTRACT shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow CONTRACTOR or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONTRACTOR hereby waives its own right of recovery against COUNTY, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

The CONTRACTOR must name the COUNTY as an additional insured. The CONTRACTOR agrees that its liability insurance shall be primary and non-contributory to the COUNTY'S and that CONTRACTOR'S liability insurance policy shall so state.

- E. Indemnification: In accepting this CONTRACT, the CONTRACTOR, including its successor and assigns, does hereby covenant and agree to indemnify and protect and save harmless the COUNTY and its officers and employees from all claims, actions or damages of every kind and description which may accrue to or be suffered by any person, partnership, corporation, or other entity of any kind that arise in whole or in part from intentional tort(s), or negligent act(s) or omission(s), or strict liability of the CONTRACTOR or its employees, agents, successors, or assigns. If the above sentence

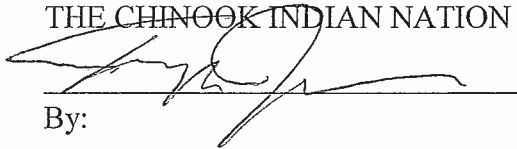


applies and any suit or action is brought against the COUNTY, its officers, its employees, or any combination thereof, the CONTRACTOR, including its successors or assigns, shall defend the suit or action at his or her or their sole cost and expense and shall fully satisfy any judgment that is rendered against the COUNTY, its officers, its employees, or any combination thereof.

- F. Assumption of Risk: The placement and storage of personal property on said premises shall be the responsibility, and at the sole risk, of the CONTRACTOR.
- G. Adjustment of Claims: The CONTRACTOR shall provide for the prompt and efficient handling of all claims for bodily injury, property damage or theft arising out of the activities of the CONTRACTOR under this CONTRACT. The CONTRACTOR agrees that all such claims, whether processed by the CONTRACTOR or CONTRACTOR'S insurer, either directly or by means of an agent, will be handled by one key person.

DATED THIS 30<sup>th</sup> day of May, 2016

INDEPENDENT CONTRACTOR  
THE CHINOOK INDIAN NATION

  
By: \_\_\_\_\_

State of Washington

Business ID No.: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Prosecutor's Office WSBA#

BOARD OF COMMISSIONERS  
PACIFIC COUNTY, WASHINGTON

\_\_\_\_\_  
Frank Wolfe, Chair

\_\_\_\_\_  
Steve Rogers, Commissioner

\_\_\_\_\_  
Lisa Ayers, Commissioner

ATTEST:

\_\_\_\_\_  
Marie Guernsey, Clerk of the Board



Board of Pacific County Commissioners  
P O Box 187 \* 1216 W Robert Bush Dr \* South Bend, WA  
98586 Phone 360/875.9337 \* Fax 360/875.9335

Meetings are held the 2nd  
and 4th Tuesday of each  
month, beginning at 9 a.m.

REQUESTED MEETING DATE:  
06/20/16

## AGENDA REQUEST FORM

### TO BE COMPLETED BY CLERK OF THE BOARD / DEPUTY CLERK OF THE BOARD

Agenda Item #: 2

BOCC ACTION: ☐ APPROVED ☐ DENIED

Initial: \_\_\_\_\_ Date: \_\_\_\_\_

☐ SUBJECT TO ADEQUATE BUDGET APPROPRIATIONS

☐ NO ACTION TAKEN/WITHDRAWN

☐ DEFERRED TO: \_\_\_\_\_

Review ☐ Clerk of the Board

☐ CONTINUED TO DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

☐ Risk Mgmt

☐ OTHER: \_\_\_\_\_

☐ Legal Required

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| <input type="checkbox"/> SEA | <input type="checkbox"/> Clerk         | <input type="checkbox"/> Health   | <input type="checkbox"/> Prosecutor | <input type="checkbox"/> Veg Mgmt       |
|                              | <input type="checkbox"/> Civil Service | <input type="checkbox"/> Juvenile | <input type="checkbox"/> SDC        | <input type="checkbox"/> WSU Ext.       |
|                              | <input type="checkbox"/> DCD           | <input type="checkbox"/> NDC      | <input type="checkbox"/> Sheriff    | <input type="checkbox"/> Other          |

### AGENDA ITEM REQUEST

Please fill out in full or the request may be returned for more information. Also, please attach all pertinent documentation.

DEPARTMENT/OFFICE: DPW	DIVISION (if applicable): Roads
OFFICIAL NAME & TITLE: Mike Collins, Director/County Engineer	PHONE / EXT: 3368
SIGNATURE: _____	DATE: _____
NARRATIVE OF REQUEST Award Safety Guardrail project - Federal Aid No. HSIP-000S(402). Call for Bids being held at 10am on July 20, 2016	
RECOMMENDED MOTION (To Be Completed by the Clerk/Deputy Clerk of the Board)  Award the 2016 Safety Guardrail Project to _____ in the amount of \$ _____	

**RCW 42.30.110**  
**Executive sessions.**

(1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:

- (a) To consider matters affecting national security;
- (b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
- (c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;
- (d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;
- (e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;
- (f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;
- (g) To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee. However, subject to RCW [42.30.140\(4\)](#), discussion by a governing body of salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;
- (h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;
- (i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

This subsection (1)(i) does not permit a governing body to hold an executive session solely because an attorney representing the agency is present. For purposes of this subsection (1)(i), "potential litigation" means matters protected by RPC 1.6 or RCW [5.60.060\(2\)\(a\)](#) concerning:

- (i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;

(ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or

(iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;

(j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

(k) To consider, in the case of the state investment board, financial and commercial information when the information relates to the investment of public trust or retirement funds and when public knowledge regarding the discussion would result in loss to such funds or in private loss to the providers of this information;

(l) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW [41.05.026](#);

(m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;

(o) To consider in the case of innovate Washington, the substance of grant or loan applications and grant or loan awards if public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information.

(2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.