



# MONROE CITY COUNCIL

## Agenda Bill No. 20-101

<b>SUBJECT:</b>	<b>Authorize the Mayor to Execute Addendum No. 1 to the Consultant Agreement with The Other Company (Anne Pflug) and Karen Reed, LLC for the Municipal Court Assessment.</b>
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<b>DATE:</b>	<b>DEPT:</b>	<b>CONTACT:</b>	<b>PRESENTER:</b>	<b>ITEM:</b>
07/14/2020	Administration	Deborah Knight	Deborah Knight	Consent Agenda #12

**Discussion:** 07/14/2020; 01/30/2020

- Attachments:**
1. Agreement Addendum No. 1
  2. Executed Agreement The Other Company and Karen Reed, LLC

**REQUESTED ACTION:** Authorize the Mayor to execute Addendum No. 1 to the consultant agreement with The Other Company and Karen Reed Consulting, LLC, for consultant services for a municipal court assessment increasing the “not-to-exceed” amount from \$51,000 to \$60,000.

### POLICY CONSIDERATIONS

*The City’s purchasing policies require council approval for contracts not consistent with the city budget.*

*The issue in front of the city council is whether to approve Addendum No. 1 with The Other Company and Karen Reed Consulting, LLC. The contract addendum is needed to compensate Ms. Pflug and Ms. Reed for the additional time to compare court service alternatives and facility options for the three cities not anticipated in the original scope of work.*

### DESCRIPTION/BACKGROUND

On January 21, 2020, the city executed a professional services contract, not to exceed \$51,000, with Anne Pflug and Karen Reed to assess four service provision options for the Monroe Municipal Court:

1. Continuing to operate a Monroe Municipal Court
2. Adding a community court and/or probation services to the Monroe court
3. Contracting with Snohomish County/Evergreen District Court
4. Expanding the Monroe Municipal Court to provide contract services to Lake Stevens and Sultan.

The final graphic report will be presented to the city council public safety committee on July 21, 2020 with a second presentation to the full city council following the public safety committee meeting.

In May, city staff were notified by the consultants that comparison of court service alternatives and facility options for the three cities resulted in a greater-than-anticipated complexity than originally anticipated in the Scope of Work resulting in additional hours needed to analyze identified alternatives, prepare recommendations, and finalize the graphic report. The consultants reduced their May invoice to stay within the budget. City staff requested an estimate of time and materials to complete the work. The consultants determined approximately (\$24,550) in project costs not covered by the contract. The consultants offered to exclude 60% (\$14,730)



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of the unbilled amount as “write-off”. If the contract amendment is approved the remaining portion of the project costs would be billed to the cities of Monroe, Lake Stevens, and Sultan.

### FISCAL IMPACTS

Original cost for this contract was \$51,000. Amendment No. 1 is for an additional \$9,000, bringing the total cost of the contract to \$60,000. Under the terms of the adopted Interlocal Agency Agreement (ILA) with the cities of Lake Stevens and Sultan, the City of Monroe is responsible for two-thirds (67%) of the contract cost approximately \$34,170. This distribution share would remain the same for the addendum (see table below). The City Council approved amending the 2020 Budget to include funding for the municipal court assessment and the anticipated Interlocal reimbursement amount. With approval, this addendum would be included in that amendment. The contract and the proposed addendum will be funded by the 2019 construction sales taxes carryover that came in \$371,027 higher than anticipated.

The cities of Lake Stevens and Sultan have verbally agreed to share the cost of the addendum. The City of Monroe will be responsible for two-thirds (\$6,030). Lake Stevens and Sultan will share the remaining third (\$2,970). The total cost of the contract billable to the City of Monroe would be \$40,200.

		Monroe (67%)	Lake Stevens/Sultan (33%)
Contract	\$51,000	\$34,170	\$16,830
Addendum No. 1	<u>\$ 9,000</u>	<u>\$6,030</u>	<u>\$2,970</u>
Total	\$60,000	\$40,200	\$19,800

### TIME CONSTRAINTS

The consultants will present the final report to the City Council Public Safety Committee and the City Council on July 21, 2020. The final billing for the project is expected at the end of July. The City Council should provide direction to Mayor and City staff regarding the proposed amendment before the consultants submit the final invoice for the court assessment.

### ALTERNATIVES

1. Move to approve a lesser, or greater amount for Addendum No. 1. This action may indicate the city council supports paying a different share of the additional costs needed to complete the court assessment.
2. Do not approve and direct the Mayor and city staff to areas of concern. This action may indicate the council does not approve the proposed addendum or has additional questions that need to be addressed before taking action.

**ADDENDUM NO. 1  
TO  
CONSULTANT AGREEMENT BETWEEN CITY OF MONROE AND  
THE OTHER COMPANY, A SOLE PROPRIETORSHIP OF ANNE PFLUG, AND  
KAREN REED CONSULTING, LLC FOR  
MUNICIPAL COURT ASSESSMENT**

THIS ADDENDUM TO THE CONSULTANT AGREEMENT (“Addendum”) made and entered into as of the Fourteenth day of July, 2020, amends that certain Consultant Agreement for Municipal Court Assessment made and entered into on January 14, 2020, by and between the City of Monroe (hereinafter “City”) and The Other Company, and Karen Reed, LLC (hereinafter “Consultants”).

Whereas, the Scope of Work attached to and incorporated into the Agreement as Exhibit A, included analyzing the court needs of the cities of Lake Stevens and Sultan; and comparing court service alternatives for Monroe, Lake Stevens, and Sultan; and

Whereas, the comparison of court service alternatives and facility options for the three cities resulted in a greater-than-anticipated complexity than originally anticipated in the Scope of Work resulting in additional hours needed to analyze identified alternatives, prepare recommendations, and finalize the graphic report;

NOW THEREFORE, in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Maximum Amount Payable. In accordance with the Consultant Agreement Section No. 5, Extra Work, the Maximum Amount Payable of the Agreement is hereby increased to and shall not exceed \$60,000.00.

Section 2. Monthly Invoicing. In accordance with the Consultant Agreement Section No. 5, Extra Work, the Fee Schedule of the Agreement, attached to and incorporated in the Agreement as Exhibit C, is hereby amended to increase the total project hours from 248 hours to 300 hours for additional analysis of joint court options with the cities of Lake Stevens and Sultan.

Except as modified herein above, all terms and conditions of the Consultant Agreement between City of Monroe, The Other Company, and Karen Reed, LLC for Municipal Court Assessment shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this instrument on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CONSULTANT:

\_\_\_\_\_

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

Title: \_\_\_\_\_

CONSULTANT:

\_\_\_\_\_

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

Title: \_\_\_\_\_

CITY OF MONROE:

\_\_\_\_\_

Geoffrey Thomas, City Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_

Rabecca R. Hasart, Interim City Clerk

<b>CONSULTANTS AGREEMENT</b>	
<b>PROJECT TITLE AND IDENTIFICATION NUMBER</b> <span style="float: right;">1</span>	<b>WORK DESCRIPTION</b> <span style="float: right;">2</span>
Municipal Court Assessment	
<b>CONSULTANTS</b> <span style="float: right;">3</span>	<b>CONSULTANTS' CONTACT NAME, AND TELEPHONE NO.</b> <span style="float: right;">4</span>
The Other Company, a sole proprietorship of Anne Pflug; and  Karen Reed Consulting, LLC, owned by Karen Reed	The Other Company Anne Pflug 790 Fields Road Ellensburg, WA 98926  Phone: 509-925-2608 Cell: 425-785-8557 E-mail: <a href="mailto:AnnePflug@gmail.com">AnnePflug@gmail.com</a>  Karen Reed Karen Reed Consulting LLC 4951 SW Forney St. Seattle, WA 98116  Phone: (206) 932-5063 Cell: (206) 948-3556 Email: <a href="mailto:kreedconsult@comcast.net">kreedconsult@comcast.net</a>
<b>FEDERAL I.D. NO.</b> <span style="float: right;">5</span>	<b>BUDGET OR FUNDING SOURCE</b> <span style="float: right;">6</span>
<b>PROJECT ADMINISTRATOR NAME, ADDRESS AND TELEPHONE NO.</b> <span style="float: right;">7</span>	<b>MAXIMUM AMOUNT PAYABLE, IF ANY</b> <span style="float: right;">8</span>
Deborah Knight City of Monroe <a href="mailto:dknight@monroewa.gov">dknight@monroewa.gov</a> 360-794-7400	\$51,000
<b>COMPLETION DATE</b> <span style="float: right;">9</span>	<span style="float: right;">10</span>
December 31, 2020	

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THIS AGREEMENT is entered into on January 14, 2020 between the City of Monroe, Washington, hereinafter called "the CITY", and the above persons, firms or organizations, hereinafter each referred to as a "CONSULTANT" and collectively called "the CONSULTANTS".

WHEREAS, the CITY desires to accomplish the above-referenced project; and

WHEREAS, the CITY does not have sufficient staff or expertise to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of the CONSULTANTS to provide the necessary services for the project; and

WHEREAS, the CONSULTANTS have represented to the CITY that the CONSULTANTS are in compliance with the professional registration statutes of the State of Washington, if applicable, and have signified a willingness to furnish consulting services to the CITY, now, therefore,

IN CONSIDERATION OF the terms and conditions set forth below, or attached and incorporated and made a part hereof, the parties agree as follows:

1. Retention of CONSULTANTS - Scope of Work. The CITY hereby retains the CONSULTANTS to provide professional services as defined in this agreement and as necessary to accomplish the scope of work attached hereto as Exhibit A and incorporated herein by this reference as if set forth in full. The CONSULTANTS shall furnish all services, labor and related equipment necessary to conduct and complete the work, except as specifically noted otherwise in this agreement.

2. Completion of Work. The CONSULTANTS shall not begin any work under the terms of this agreement until authorized in writing by the CITY. The CONSULTANTS shall complete all work required by this agreement according to the schedule attached as Exhibit B and incorporated herein by this reference as if set forth in full. A failure to complete the work according to the attached schedule, except where such failure is due to circumstances beyond the control of the CONSULTANTS, shall be deemed a breach of this agreement. The established completion time shall not be extended because of any delays attributable to the CONSULTANTS, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays caused by circumstances beyond the control of the CONSULTANTS. All such extensions shall be in writing and shall be executed by both parties.

3. Payment. The CONSULTANTS shall be paid by the CITY for satisfactorily completed work and services satisfactorily rendered under this agreement as provided in Exhibit C, attached hereto and incorporated herein by this reference as if set forth in full. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in the Scope of Work attached. The CONSULTANTS shall be entitled to invoice the CITY no more frequently than once

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per month during the course of the completion of work and services by the CONSULTANT. Invoices shall detail the work performed or services rendered, the time involved (if compensation is based on an hourly rate) and the amount to be paid. The CITY shall pay all such invoices within 45 days of submittal, unless the CITY gives notice that the invoice is in dispute. In no event shall the total of all invoices paid exceed the maximum amount payable set forth above, if any, and the CONSULTANTS agree to perform all services contemplated by this agreement for no more than said maximum amount.

4. Changes in Work. The CONSULTANTS shall promptly make such changes and revisions in the complete work provided by this agreement as may be necessary to correct errors made by the CONSULTANTS and appearing therein when required to do so by the CITY. The CONSULTANTS shall make such corrective changes and revisions without additional compensation from the CITY. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANTS shall make such revisions as directed by the CITY; this work shall be considered as Extra Work and will be paid for as provided in Section 5.

5. Extra Work.

A. The CITY may, at any time, by written order, make changes within the general scope of the agreement in the services to be performed. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work or services under this agreement, whether or not changed by the order, or otherwise affects any other terms or conditions of the agreement, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule or both; and (3) other affected terms, and shall modify the agreement accordingly.

B. The CONSULTANTS must submit any "proposal for adjustment" under this clause within 30 days from the date of receipt of the written order to make changes. However, if the CITY decides that the facts justify it, the CITY may receive and act upon a proposal submitted before final payment of the agreement.

C. Failure to agree to any adjustment shall be a dispute as provided in Section 18. Notwithstanding any such dispute, the CONSULTANTS shall proceed with the agreement as changed.

D. Notwithstanding any other provision in this section, the maximum amount payable for this agreement shall not be increased or considered to be increased except by specific written amendment of this agreement.

6. Ownership of Work Product. Any and all documents, drawings, reports, and other work product produced by the CONSULTANTS under this agreement shall become the property of the CITY upon payment of the CONSULTANTS' fees and charges therefore. The CITY shall have the complete right to use and re-use such work product in any manner deemed appropriate by the CITY, provided, that use on any project other than that for which the work product is prepared shall

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be at the CITY'S risk unless such use is agreed to by the CONSULTANTS. Electronic versions of all work products shall be provided to the CITY in a format compatible with CITY software, except to the extent expressly waived in the attached exhibits.

7. Independent Contractor. The CONSULTANTS are each independent contractors for the performance of services under this agreement. The CITY shall not be liable for, nor obligated to pay to the CONSULTANTS, or any employee of the CONSULTANTS, sick leave, vacation pay, overtime or any other benefit applicable to employees of the CITY, nor to pay or deduct any social security, income tax, or other tax from the payments made to the CONSULTANTS which may arise as an incident of the CONSULTANTS performing services for the CITY. The CITY shall not be obligated to pay industrial insurance for the services rendered by the CONSULTANTS.

8. Indemnity. Each CONSULTANT agrees to hold harmless, indemnify and defend the CITY, its officers, agents, employees and volunteers from and against any and all claims, injuries, losses, suits, costs or liability, including attorneys' fees (collectively, "Claims"), specifically including without limitation Claims resulting from injuries, sickness or death of employees of the CONSULTANT and/or damage to property, arising out of or otherwise resulting from the acts, errors, or omissions of that CONSULTANT, its officers, agents, subconsultants or employees, in connection with the services required by this agreement, provided, however, that: Each CONSULTANT'S obligations to indemnify, defend and hold harmless shall not extend to Claims caused by or resulting from the sole willful misconduct or sole negligence of the City.

Should a court of competent jurisdiction determine that this agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of a CONSULTANT and the CITY, its officers, officials, employees, and volunteers, the CONSULTANT'S liability, including the duty and cost to defend, hereunder shall be only to the extent of the CONSULTANT'S negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes each CONSULTANT'S waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The CITY's acceptance or approval of any services or work product under this agreement shall not be deemed to reduce, abridge, limit or otherwise alter the CONSULTANTS' obligations as set forth in this section, unless such intent is expressly stated in writing by the CITY.

The provisions of this section shall survive the expiration or termination of this agreement.

9. Insurance. Each CONSULTANT shall separately procure and maintain for the duration of the agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by that CONSULTANT, its agents, representatives, or employees.

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A. Minimum Scope of Insurance

Each CONSULTANT shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

2. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The CITY shall be named as an additional insured under the CONSULTANT'S Commercial General Liability insurance policy with respect to the work performed for the CITY using an additional insured endorsement at least as broad as ISO CG 20 26.

3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability Professional liability insurance appropriate to the CONSULTANT'S profession.

B. Minimum Amounts of Insurance

Each CONSULTANT shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY'S interests in this matter. The CITY has made no recommendation to the CONSULTANTS as to the insurance necessary to protect the CONSULTANTS' interests and any decision by the CONSULTANTS to carry or not carry insurance amounts in excess of the above is solely that of each CONSULTANT.

C. Other Insurance Provisions.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANTS shall each submit certificates of insurance to the CITY evidencing the coverages specified above, together with an additional

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insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement and prior to the performance of any work specified hereunder. The certificates of insurance shall cover the work specified in or performed under this agreement. The certificate and endorsement must be project and/or site specific.

D. Cancellation.

Each CONSULTANT shall provide the CITY with written notice of any policy cancellation within two business days of its receipt of such notice. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

The CONSULTANTS' insurance coverage shall be primary insurance as respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the CONSULTANTS' insurance and shall not contribute with it.

E. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

F. No Limitation.

The CONSULTANTS' maintenance of insurance as required by this agreement shall not be construed to limit the liability of each CONSULTANT to the coverage provided by such insurance, or otherwise limit the CITY'S recourse to any remedy available at law or equity.

G. Failure to Maintain Insurance.

Failure on the part of each CONSULTANT to maintain the insurance as required shall constitute a material breach of contract, upon which the CITY may, after giving five business days notice to the CONSULTANT to correct the breach, immediately terminate this agreement or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the CITY on demand, or at the sole discretion of the CITY, offset against funds due the CONSULTANT from the CITY.

H. City Full Availability of CONSULTANT Limits.

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

10. Records Retention and Disclosure. Each CONSULTANT shall keep all records related to this agreement for a period of three years following completion of the work for which the

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CONSULTANT is retained. The CONSULTANTS shall permit any authorized representative of the CITY, and any person authorized by the CITY for audit purposes, to inspect such records at all reasonable times during regular business hours of the CONSULTANTS. Upon request, the CONSULTANTS will provide the CITY with reproducible copies of any such records. The copies will be provided without cost if required to substantiate any billing of the CONSULTANTS, but the CONSULTANTS may charge the CITY for copies requested for any other purpose. The CONSULTANTS shall also provide a complete electronic copy of all reports, plans, and specifications upon completion of the work or upon request of the CITY.

Separate from and additional to the foregoing, each CONSULTANT shall fully cooperate with and assist the CITY with respect to any request for public records received by the CITY and related to any public records generated, produced, created and/or possessed by the CONSULTANT and related to the services performed under this agreement. Upon written demand by the CITY, the CONSULTANTS shall furnish the CITY with full and complete copies of any such records within five business days.

The CONSULTANTS' failure to timely provide such records upon demand shall be deemed a material breach of this agreement. To the extent that the CITY incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, the responsible CONSULTANT shall fully indemnify and hold harmless the CITY as set forth in Section 8.

For purposes of this section, the term "public records" shall have the same meaning as defined by Chapter 42.17 RCW and Chapter 42.56 RCW, as said chapters have been construed by Washington courts.

The provisions of this section shall survive the expiration or termination of this agreement.

11. Notices. All notices required to be given by either party to the other under this agreement shall be in writing and shall be given in person or by mail to the addresses set forth in the box for the same appearing at the outset of this agreement. Notice by mail shall be deemed given as of the date the same is deposited in the United States mail, postage prepaid, addressed as provided in this paragraph.

12. Project Administrator. The Project Administrator shall be responsible for coordinating the work of the CONSULTANTS, for providing any necessary information for and direction of the CONSULTANTS' work in order to ensure that it generally meets the requirements of this agreement, and for reviewing, monitoring and approving the general quality and quantity of such work. The CONSULTANTS shall report to and take any necessary direction from the Project Administrator. Provided, that nothing in this section shall be construed as altering each CONSULTANT'S duty of care or otherwise limiting, abridging, waiving or reducing the CONSULTANTS' obligations under this agreement.

13. Conflict Amongst Main Agreement and Attachments. In case of conflict between the Exhibits to this agreement and the portions of this agreement preceding the signature lines (Sections 1-23), the terms of Sections 1-23 shall prevail. Any limitations on liability and

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indemnification expressed in the attached exhibits beyond those specified in Sections 8 and 9 (prior to signature line) shall be null and void.

14. Termination. The CITY reserves the right to terminate this agreement at any time upon ten (10) days written notice to the CONSULTANTS. Any such notice shall be given to the address specified in Box 3 on page 1. In the event that this agreement is terminated by the CITY other than for fault on the part of the CONSULTANTS, a final payment shall be made to the CONSULTANTS for all services satisfactorily performed. No payment shall be made for any work completed after ten (10) days following receipt by the CONSULTANTS of the notice to terminate. In the event that services of the CONSULTANTS are terminated by the CITY for fault on part of the CONSULTANTS, the amount to be paid shall be determined by the CITY with consideration given to the actual cost incurred by the CONSULTANTS in performing the work to the date of termination, the amount of work originally required which would satisfactorily complete it to date of termination, whether that work is in a form or type which is usable to the CITY at the time of termination, the cost of the CITY of employing another firm to complete the work required, and the time which may be required to do so.

15. Non-Discrimination. The CONSULTANTS agree not to discriminate against any customer, employee or applicant for employment, subcontractor, supplier or materialman, because of race, color, creed, religion, national origin, marital status, sex, sexual orientation, age or handicap, except for a bona fide occupational qualification. The CONSULTANTS understand that if they violates this provision, this agreement may be terminated by the CITY and that the CONSULTANTS may be barred from performing any services for the CITY now or in the future.

16. Subcontracting or Assignment. The CONSULTANTS may not assign or subcontract any portion of the services to be provided under this agreement without the express written consent of the CITY. Any subconsultants approved by the CITY at the outset of this agreement are named on Exhibit D attached hereto and incorporated herein by this reference as if set forth in full.

17. Non-Waiver. Payment for any part of the work or services by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANTS for any breach of the agreement by the CONSULTANTS, or for failure of the CONSULTANTS to perform work required of it under the agreement by the CITY. Waiver of any right or entitlement under this agreement by the CITY shall not constitute waiver of any other right or entitlement.

18. Resolution of Disputes; Governing Law and Venue. This agreement shall be governed by and construed in accordance with the laws of the State of Washington. If any dispute arises out of or in connection with this agreement, including any question regarding its existence, enforceability, interpretation, or validity, the parties will, if practicable, meet and confer in good faith for a period of fourteen (14) days to attempt to resolve such dispute without an adversary proceeding. If at the end of the fourteen (14) day period such attempt at resolution is unsuccessful, the parties may resort to litigation. The exclusive venue for any litigation arising out this agreement shall be the Snohomish County Superior Court. The substantially prevailing party in any such

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litigation shall be entitled to an award of its reasonable attorneys' fees.

19. Taxes. Each CONSULTANT will be solely responsible for the payment of any and all applicable taxes related to the services provided under this agreement and if such taxes are required to be passed through to the CITY by law, the same shall be duly itemized on any billings submitted to the CITY by the CONSULTANTS.

20. Code of Ethics. The CONSULTANTS and all subconsultants/subcontractors shall also comply with the Monroe Code of Ethics (Exhibit E), Chapter 2.52 MMC. Any violation of Chapter 2.52 MMC by the CONSULTANTS or any of their subconsultants/subcontractors shall be considered a material breach of this Agreement.

21. Entire Agreement. This agreement represents the entire integrated agreement between the CITY and the CONSULTANTS, superseding all prior negotiations, representations or agreements, written or oral. This agreement may be modified, amended, or added to, only by written instrument properly signed by both parties hereto.

22. Legal Compliance. In the performance of work under this agreement, the CONSULTANTS shall comply with all federal, state and municipal laws, ordinances, rules and regulations that are applicable to the CONSULTANTS' business, equipment, and personnel engaged in operations covered by this agreement or accruing out of the performance of such operations.

23. Risk of Loss. Each CONSULTANT shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at the CONSULTANTS' own risk, and the CONSULTANTS shall be solely responsible for any loss of or damage to materials, tools, or other articles used or held for use in connection with the work.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the day and year first above written.

CONSULTANT:

CONSULTANT:

\_\_\_\_\_

\_\_\_\_\_

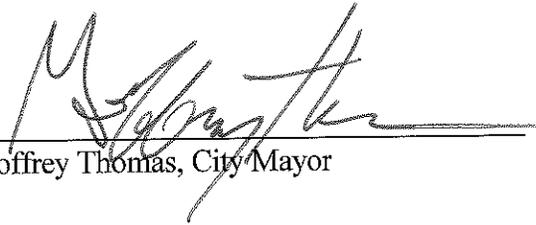
By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

CITY OF MONROE:

  
\_\_\_\_\_  
Geoffrey Thomas, City Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_

## EXHIBIT A

### SCOPE OF WORK

#### I. Purpose of Consulting Contract

The purpose of the contract work desired by the City of Monroe, Washington, on behalf of itself and the Cities of Lake Stevens and Sultan under a pending interlocal agreement between them, is to develop a graphic report that lays out and evaluates program strategies to improve existing court outcomes and alternative service provision models available to the parties for adult infraction and misdemeanor court and probation services. The cities are assessing four service provision options: continuing to operate a Monroe Municipal Court; adding community court and/or probation services to the Monroe court; contracting with Snohomish County/Evergreen District Court; or expanding the Monroe Municipal Court to provide contract services to Lake Stevens and Sultan.

#### II. Contract Approach

##### Graphic report

Using qualitative and quantitative data and analysis from existing financial data, site visits, interviews, internet sources, published documents and evidence-based research prepare a formal written report in electronic format for decision makers. The parties are the Other Company, a sole proprietorship of Anne Pflug; Karen Reed Consulting, LLC, owned by Karen Reed, and the City of Monroe one behalf of the three cities.

##### Data elements, assessment and evaluation

At a minimum, documentation and data will be collected from Monroe, Lake Stevens, Sultan, their existing contractors, the Washington State Office of the Administrator of the Courts, Snohomish County, Marysville and other relevant state agencies. Documentation of current and historical service and potential future strategies including at a minimum: contracting with the county for District Court services including probation, expanding the Monroe municipal court to contract with Lake Stevens and Sultan, continuing the existing stand-alone Monroe Municipal Court and modifying services to add community court and/or probation services.

Elements of the evaluation would include:

##### **Assessment of Monroe Municipal Court:**

- Historical, current and projected caseload
- Current and projected workload and staffing
- Customer service
- Current work methods, programs and criminal justice approach
- Capacity of current facilities and technology along with statement of future requirements.

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- Identification of a menu of potential program changes that can improve productivity and/or desired outcomes aligned with the city's desired criminal justice approach. These program changes should address community needs and the city's interest in reducing criminal activity associated with homelessness, addiction, and behavioral health.

**Assessment of the Court needs of Lake Stevens and Sultan:**

- Historical, current and projected caseload
- Desired court and customer service requirements moving forward
- Implications for current and projected workload of court
- Implications of court service changes on the cost and operation of police, public defense, prosecution and jail services
- Implications for capacity of current Monroe facilities and technology

**Financial, Direct and Indirect Service and Criminal Justice Outcomes Impact Comparison of Court Service Alternatives:**

- Expand Monroe Municipal Court to provide contract services to Lake Stevens and Sultan
- Court and probation service proposal from Evergreen District Court (if received)
- Modifying Monroe Municipal court services to provide community court and/or probation services
- Continuing existing levels of service and providers
- Discussion of recommendations, next steps, implementation requirements and timeline

Interviews and Site Visits

On site, questionnaire based and/or phone interviews will be conducted with City and County officials and staff and additional stakeholders identified by the parties at the request of the consultant team. Jurisdictional interests including scope of service requirements, customer service expectations, service demand, cost limitations, funding and alternative cooperative arrangements will be explored in the interviews.

**II. Products**

The following products are anticipated:

- 1) A draft report for approval by the project coordinator in the form of a graphic report and any needed appendices that can be adapted for web publication and/or Power Point presentations to elected officials.

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- 2) A final graphic report. Final report in the form of a graphic report and any needed appendices delivered within 10 days from receipt of final comments on the draft from the project coordinator.
- 3) Three presentations to designated groups of the report's findings.

This project *does not* include additional or updated cost estimates of facility modification or construction, site planning, environmental or land use review, building design or preliminary planning.

The parties agree that two project/contract amendments may, in accordance with Section 21 of the agreement, be negotiated and implemented on or before the end of June 2020 (along with an appropriate contract price adjustment and time extension). Those amendments may include pricing/contract terms analysis for a joint contract between the cities and/or assistance in facilitating contract negotiations between service providers and the cities.

### **III. City Responsibilities**

Monroe will provide at least one staff person to work with the consultant team to gather data, schedule interviews and arrange any interview logistics, provide introductory and any follow up material to interviewees and other logistical support.

The City will provide introductions of the consultant team and the study to interviewees and other appropriate county and city officials in Snohomish County and Marysville. **The City will request from Snohomish County within two weeks of consultant contract execution a cost estimate for providing District court and probation services to the cities.**

## **EXHIBIT B**

### **COMPLETION SCHEDULE**

1. Kick off meeting (Confirm scope, study questions, basic information, data asks, interview list and schedule) – January 2020
2. On-site/phone/questionnaire interviews, follow up and data gathering (26 to 36 interviews) – January- February 2020
3. Potential and existing site visits, space plan analysis and data/photos – February-March 2020
4. Collection of quantitative data and analysis of data and interview material – March-April 2020
5. Draft Report – April-May 2020
6. Final Report – May-June 2020
7. Three presentations of report to groups designated by clients - 20 hours (includes preparation) April-June 2020

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## EXHIBIT C

### FEE SCHEDULE

**The following cost and time estimate assumes that key data will be readily available from the cities, county, state and other relevant parties. It also assumes that Snohomish County provides a contract services cost estimate for District Court services in a timely manner.**

- Kick off meeting (Confirm scope, study questions, basic information, data asks, interview list and schedule) – 6 hours total including prep
- On-site/phone/questionnaire interviews, follow up and data gathering (26 to 36 interviews) – 80 hours
- Potential and existing site visits, space plan analysis and data/photos – 24 hours
- Collection of quantitative data and analysis of data and interview material – 50 hours
- Draft Report - 35 hours
- Final Report – 8 hours
- Three presentations of report to groups designated by clients - 20 hours (includes preparation)
- Check in and project coordination - 25 hours

**Total graphic report project hours 248 @ \$200.00 per hour = \$49,600 plus reimbursable expenses at city rates, insurance that meets city requirements and State custom data charges.**

Hourly rate: \$200.00 per hour

Reimbursable Expenses: Hotel expenses, when pre-approved by the City, shall be reimbursed at customary City rates. Any printing or other logistical costs will be billed at cost. There is no hourly or mileage charge for travel to and from Monroe or other locations for the project for Anne Pflug. Karen Reed will charge travel time for meetings when in excess of 1.5 hours per trip.

Billing: Anne Pflug (The Other Company) and Karen Reed (Reed Consulting) will be separately paid directly by the City based on joint project invoices submitted by the CONSULTANTS separately delineating services provided by each CONSULTANT. The CONSULTANTS agree that such separate delineation on said invoices shall represent the appropriate payment allocation as between each CONSULTANT. W-9's will be provided by the consultant team to the City.

## EXHIBIT D

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## SUBCONSULTANTS LIST

None

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## EXHIBIT E

### MONROE CODE OF ETHICS

<u>2.52.010</u>	Purpose – Construction.
<u>2.52.020</u>	Definitions.
<u>2.52.030</u>	Award of contracts prohibited.
<u>2.52.040</u>	Board of ethics – Public officials.
<u>2.52.050</u>	Miscellaneous provisions.
<u>2.52.060</u>	Appeal – Penalties for violation.

#### **2.52.010 Purpose – Construction.**

The city of Monroe hereby adopts the code of ethics for municipal officers codified at Chapter 42.23 RCW, inclusive of any future amendments thereof. It is the city's specific intent that the ethical standards set forth at Chapter 42.23 RCW shall govern the conduct of municipal officers within the city of Monroe. Except as expressly provided in this chapter, the city disclaims any intent to impose substantive standards of conduct that are more stringent than or otherwise different from those set forth in Chapter 42.23 RCW with respect to the subject matter of said chapter. (Ord. 019/2013 § 1 (Exh. A); Ord. 003/2010 § 1 (Exh. A))

#### **2.52.020 Definitions.**

The following words and phrases as used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

- A. "Advisory opinion" means an opinion rendered by the board of ethics, based upon hypothetical circumstances, indicating how the board would rule on a matter having the same or sufficiently parallel facts, should an adversary proceeding develop.
- B. "Hypothetical circumstances" means circumstances of fact framed in such a manner as to call for an opinion from the board based on a series of assumptions and not based on the known or alleged past or current conduct of a specific public official or employee that could be the basis of a complaint under MMC 2.52.040.
- C. "Prima facie showing" means evidence which, standing alone and unexplained, would maintain the proposition and claimed violation of this chapter set forth in the complaint. (Ord. 019/2013 § 1 (Exh. A); Ord. 003/2010 § 1 (Exh. A))

#### **2.52.030 Award of contracts prohibited.**

Members of the city of Monroe, Washington, boards, commissions, and city staff are prohibited from being awarded contracts with the city. Exceptions to this rule are those covered by the CBA, RCW and WAC. This section was submitted to the Monroe city council as an initiative with enough required signatures to be submitted to the voters. The city council adopted the initiative as an ordinance as an alternative to placing on the ballot. Consequently, to the extent required by law, this subsection shall be construed as superseding any conflicting city requirements or requirements that otherwise operate to illegally amend the requirements of an initiative. (Ord. 019/2013 § 1 (Exh. A); Ord. 003/2010 § 1 (Exh. A))

#### **2.52.040 Board of ethics – Public officials.**

There is hereby created a board of ethics for city of Monroe public officials. The purpose of this board is to issue advisory opinions on the provisions of this code of ethics and to review and report to the city council on any alleged violations of the code of ethics, all as set forth below. The board shall also provide recommendations on amendments to the ethics ordinance, as directed by the city council:

- A. **Composition.** The board of ethics shall be composed of five members. None of these may be a public official, city employee or immediate family of either. The mayor shall appoint the board members, with the confirmation of the city council. The board of ethics must be citizens of the United States and residents of the city they serve for at least one year before their appointment to the ethics board.

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The regular term of office for members of the board of ethics shall be three years. Each member shall hold office until a successor is appointed and confirmed. Regular terms shall commence January 1st and end December 31st. Initial terms shall be staggered with two members appointed for terms beginning upon their appointment in 2004 and ending December 31, 2004; two members appointed for terms beginning upon their appointment and ending December 31, 2005; and one member appointed for a term beginning upon his or her appointment and ending December 31, 2006. After expiration of the initial terms, subsequent appointees shall serve a regular three-year term.

The board shall elect from its membership a presiding officer who shall be referred to as a chairman, chairwoman, or chairperson, as may be appropriate, who shall serve for a period of one year, unless reelected.

A majority of the board of ethics shall constitute a quorum. The board shall meet as frequently as it deems necessary, or at the request of the mayor or a quorum of the city council. The board shall adopt procedures governing the conduct of its meetings, hearings and the issuance of opinions.

#### B. Specific Complaint Against a Public Official.

1. Any person may submit a written complaint to the mayor or city administrator alleging one or more violations of this ethics code by a public official. The allegation shall set forth specific facts with precision and detail, sufficient for a determination of sufficiency by the board. The complaint shall also set forth the specific sections and subsections of this code that the facts violate, and the reasons why. Complaints should be signed by the person or persons submitting them and include the submitter's correct name, address at which mail may be personally delivered to the submitter, and the telephone number at which the submitter may be contacted.
2. The mayor or his/her designee shall inform the public official and the council of the complaint and shall submit the complaint to the board for determination of sufficiency of the complaint within twenty-four hours of its receipt. Voice mail, email or similar notification of the defendant is acceptable if actual notice is not immediately practicable. A copy of the complaint shall also be sent to the defendant by registered mail within three days of receipt. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts which constitute a prima facie showing of a violation of a specified provision or provisions of this code. The purpose of requiring that the complaint be sufficient is to ensure that the complaint is supported by identifiable facts, and to ensure that the complaint is not based on frivolous charges.
3. The complainant shall have the responsibility for proving the allegations in the complaint by a preponderance of the evidence.
4. Complaints shall be subject to a two-year statute of limitation. The limitations period shall commence from the date that information on completion of the alleged misconduct was reasonably available to the public.
5. Complaints may be amended as authorized by the decision-maker as justice requires; provided, that the time frames of the review process provide the defendant with a fair opportunity to respond.
6. All public officials and employees, excluding the alleged violator, shall observe strict confidentiality as to the complaint and alleged violator until the review is complete, to the extent that the information is acquired as a result of a person's status as a public official or employee. Confidentiality after completion shall be maintained unless the complaint or finding is released through a public disclosure request filed with the city attorney. City officials and employees may divulge information to the extent necessary to defend against inaccurate or misleading public information about their involvement in the complaint review process. The ethics board and/or city council may divulge information to the extent necessary to correct any inaccurate or misleading public information about the complaint review process. Any person who violates this subsection shall not be subject to criminal penalties; however, a violation of this subsection may result in disciplinary action against such person. The city council may remove a member of the board of ethics from the board if it determines that the member has violated this subsection.
7. The board shall hold a hearing for the purpose of determining sufficiency of written complaints. The board shall begin the hearing no later than twenty days after the complaint is received and shall conclude the hearing(s) no later than twenty-four days after it receives the complaint; provided, however, that the running of these time periods shall be tolled and the complaint proceedings shall be stayed in the event the board makes application to the city council for continuance of the proceedings. Such continuances

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may only be granted by the city council when there is demonstrable and compelling reason(s) to do so, and may not exceed ten days. The board shall render a written report, setting forth its findings of sufficiency as to whether or not the individual against whom the complaint was filed may have violated the code of ethics.

8. The determination of sufficiency or insufficiency by the board is final and binding, and no administrative or other legal appeal is available. If the finding is one of sufficiency of the complaint, then the complaint shall be heard and reported as set forth below.

9. No report may be issued by the board, unless a person or entity complained against has had an opportunity to present information on his, her or its behalf at a hearing before the board.

10. A copy of the written report on sufficiency shall be delivered to the city council, person complained against, and the complaining party within ten days of conclusion of the hearing, unless a longer time period has been requested by the person complained against, and has been approved by the board or unless a longer time period has been requested by the board and has been approved by the city council.

11. In the event the written report provides that the board has found sufficiency in the allegations against whom the complaint has been filed, the matter shall be referred for hearing to the city's hearings examiner unless the defendant requests the matter be heard by the ethics board. (Hearings examiners will be rotated from a rotational roster maintained by the city and shall be licensed and practicing attorneys who are not residents of the city.)

a. Hearings by a hearings examiner or the ethics board must be held within twenty days of a finding of sufficiency unless an extension is requested, or granted, by the defendant. The hearing must be concluded within ten days of commencement of the hearing unless extended by the request or agreement of the defendant.

b. Findings of fact and conclusions and opinion of the hearings examiner or the ethics board must be received by the council no later than seven days after the conclusion of the hearing.

c. The complainant or defendant may request a subpoena for documentary evidence or the attendance of witnesses by making a written application to the mayor describing in detail the subject matter of the proposed subpoena and an explanation of why such information is reasonably necessary in order to conduct the hearing. The subpoena may be issued in the event the mayor determines the subpoena request is reasonable, relevant to the complaint and within the subpoena power of the city. The request for a subpoena shall be submitted to the mayor within two business days after the determination of sufficiency and the mayor shall have two business days to issue a decision. In the event the mayor denies the request or the complaint alleges a violation of the ethics code by the mayor, the defendant or complainant may request a decision from the city council. City council review shall be scheduled for the next regular city council business meeting or study session, unless an earlier special meeting is available. The commencement of the hearing on the merits shall be delayed until five days after the council makes a decision on whether to issue a subpoena.

12. In the event the final determination by either the hearings examiner or the ethics board provides that the individual against whom the complaint has been filed has violated the code of ethics, the council shall convene and render its decision within seven days of the receipt of said determination unless an extension is requested by the defendant and granted by council. In the event that the city council members agree by majority vote that one or more of the violations occurred, then as to the violations the city council may take any of the following actions by a majority vote of the council; provided, that penalties may only be based upon violations alleged in the complaint or amended complaint and not upon other violations discovered during the complaint process:

a. Admonition. An admonition shall be a verbal nonpublic statement made by the mayor to the individual.

b. Reprimand. A reprimand shall be administered to the individual by letter. The letter shall be approved by the city council and shall be signed by the mayor. If the individual objects to the content of such letter, he or she may file a request for review of the letter of reprimand with the city council. The city council shall review the letter of reprimand in light of the report and the request

for review, and may take whatever action appears appropriate under the circumstances. The action of the city council shall be final and not subject to further review.

c. Censure. A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the city council to receive the censure. Notice shall be given at least twenty days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. Within five days of receipt of the notice, the individual may file a request for review of the content of the proposed censure with the city council. Such a request will stay the administration of the censure. The city council shall review the proposed censure in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the city council shall be final and not subject to further review. If no such request is received, the censure shall be administered at the time and place set. It shall be given publicly, and the individual shall not make any statement in support of or in opposition thereto or in mitigation thereof. A censure shall be deemed administered at the time it is scheduled whether or not the individual appears as required.

d. Removal. In the event the individual against whom the complaint has been filed is a member of a city board, commission, committee, or other multi-member bodies appointed by the mayor with the approval of the city council, the city council may, by a majority vote, remove the individual from such board, commission or committee; provided, however, that nothing in this section authorizes the city council to remove a council member or the mayor from his or her office.

13. Proceedings by the board or the hearings examiner when they relate to action involving a person shall be made in executive session; however, upon request of the person involved, the proceeding shall be open to the public. The complaint, the determination of sufficiency or no sufficiency, and written report of the board or the hearings examiner shall be considered public records.

14. Action by the city council shall be by majority vote. If the proceeding involves a member of the city council, the member does not vote on any matter involving the member. As provided in RCW 35A.12.100, the mayor shall vote in the case of a tie, except if the action is against the mayor. Deliberation by the council may be in executive session; however, upon request of the person complained against, the meeting shall be open to the public.

15. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts, which constitute a prima facie showing of a violation of a specified provision or provisions of this code.

C. Specific Complaint Against a City Employee Official. In the event the individual against whom the complaint has been filed is a city employee, the city shall follow the appropriate discipline, through the employee's supervisor and/or department head, procedures as outlined in the appropriate bargaining agreement, employee handbook, civil service rules, and/or standard operating procedures. Employees also have the right to appeal through the court system as regulated by state and federal law.

D. Board Unavailability – Hearing Examiner Authority. In the event the ethics board is unable to perform any function designated under this section due to lack of a quorum or other reason, such function shall instead be performed by the hearing examiner who shall be governed by the board's procedures. (Ord. 019/2013 § 1 (Exh. A); Ord. 003/2010 § 1 (Exh. A). Formerly 2.52.080)

### **2.52.050 Miscellaneous provisions.**

The board of ethics shall also render written opinions concerning the applicability of the code of ethics to hypothetical circumstances or situations upon the request of the mayor or any council member. Requests for opinions from the public must be approved by either the mayor or a majority vote of council.

The city shall release copies of any written report resulting from a review of a complaint and any written censures or reprimands issued by the city council in response to public records requests as consistent with Chapter 42.56 RCW and any other applicable public disclosure laws.

The mayor shall provide staff, as he or she deems appropriate, to assist the board of ethics.

Board members shall be reimbursed by the city for reasonable expenses incurred in their exercise of the official business of the board, consistent with the expense reimbursement policies of the city.

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The city clerk shall cause a copy of this code of ethics to be distributed to every public officer of the city within thirty days after enactment of the ordinance codified in this chapter. The ordinance codified in this chapter will also be made available on the city's web page and hard copies will be made available upon request. (Ord. 019/2013 § 1 (Exh. A); Ord. 003/2010 § 1 (Exh. A). Formerly 2.52.090)

**2.52.060 Appeal – Penalties for violation.**

Appeal of a decision of the board of ethics that the code of ethics has been violated, or a decision of the city council as to an admonition, reprimand, censure, or removal, may be filed with the Snohomish County superior court, Washington State. Any person who files with the ethics board a false charge of misconduct on the part of any public official or public employee when the person knows it is false shall be guilty of a misdemeanor. In addition to criminal penalties, violators shall pay a civil penalty of five hundred dollars, or three times the economic value of anything received in violation of this chapter, whichever is greater. Any monetary penalty assessed civilly shall be placed in the city's general fund. (Ord. 019/2013 § 1 (Exh. A); Ord. 003/2010 § 1 (Exh. A). Formerly 2.52.100)

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