CLEARANCES

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<tr>
<th>Originator: Peter Gill</th>
<th>Initial</th>
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<th>Date Received in Council Office</th>
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<td>Division Head: Mark Personius</td>
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<td>Dept. Head: Sam Ryan</td>
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<td>Executive: Jack Lowes</td>
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TITLE OF DOCUMENT:
Proposed Whatcom County Code Chapter 20.51, Lake Whatcom Watershed Overlay District; and related Comprehensive Plan Amendments

ATTACHMENTS: Ordinance
Exhibit A – Updated 20.51 based on Council’s Natural Resource Committee recommendations, Exhibit B – Removal of Lake Whatcom from existing code sections, Exhibit C – Definitions, Exhibit D – Comprehensive Plan Language changes

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes (X) NO
Requested Date: Hearing held on 06-18-2013

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.)
Continued discussion at Natural Resources Committee of:
An ordinance to amend Whatcom County Code, Title 20 – Zoning to adopt Chapter 20.51, Lake Whatcom Watershed Overlay District and corresponding definitions in 20.97; amend Title 20 – Zoning, to remove Lake Whatcom from Chapter 20.71, and applicable sections of 20.80,600; Amend the text of Whatcom County Comprehensive Plan, Land Use Chapter policies relating to water quality and stormwater management in the Lake Whatcom Watershed.

COMMITTEE ACTION:
7/09/2013: Discussed. Schedule in Natural Resources Committee and full Council for approval in two weeks.

COUNCIL ACTION:
6/04/2013: Introduced
6/18/2013: Hearing took place. Council referred to Natural Resources Committee 6-1, Weimer opposed

Related County Contract #: PLN2011-00015
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

TO: Whatcom County Council

THROUGH: Mark Personius, Long Range Planning Manager

FROM: Peter Gill, Senior Planner

DATE: July 23, 2013

SUBJECT: Ordinance to add a new chapter to the Zoning code, Lake Whatcom Watershed Overlay District

This is a continuation of the July 9, 2013 Natural Resource Committee discussion of the Lake Whatcom Watershed Overlay District. The included ordinance and code reflect the minor changes proposed prior to the June 18 public hearing and discussed at the July 9, 2013 Natural Resource Committee meeting.

This chapter modifies the stormwater management rules for new development. These changes are needed in order to protect Lake Whatcom from water quality degradation that can result from an imbalance of nutrients and bacteria in the runoff that gets into the lake.

In your packet you will find:

- **Ordinance** adopting the Lake Whatcom Watershed Overlay District and amending the Whatcom County Comprehensive Plan, Land Use chapter.


  - Exhibit B – Removal of Lake Whatcom from existing land use and stormwater regulations in WCC 20.71, WCC 20.80.635, and WCC 20.80.735

  - Exhibit C – Definitions (WCC 20.97)

  - Exhibit D – Comprehensive Plan Amendments to Policy 2DD – 2.C. This amendment is necessary to maintain consistency between the Comprehensive Plan and implementing development regulations.
AMENDING THE WHATCOM COUNTY ZONING CODE TITLE 20 – TO CREATE CHAPTER 20.51, LAKE WHATCOM WATERSHED OVERLAY DISTRICT and corresponding definitions in 20.97; amend Title 20 – Zoning, to remove Lake Whatcom from Chapter 20.71, and applicable sections of 20.80.600; AMENDING THE TEXT OF WHATCOM COUNTY COMPREHENSIVE PLAN, Land Use Chapter policies relating to water quality and stormwater management in the Lake Whatcom Watershed.

WHEREAS, Lake Whatcom is the drinking water source for approximately half the residents of Whatcom County; and

WHEREAS, the preservation and protection of drinking water is a high priority for Whatcom County; and

WHEREAS, Erosion, sedimentation, phosphorus and other pollutants associated with increased land clearing and development are of concern for a number of reasons including their impacts on water quality and beneficial uses, such as drinking water.

WHEREAS, Whatcom County recognizes the need to address phosphorus loading into Lake Whatcom through land use management; and

WHEREAS, in 1998, Whatcom County, the City of Bellingham, and the Lake Whatcom Water and Sewer District formalized their joint commitment to protect and manage the lake through the adoption of an interlocal agreement concerning the joint management of the lake creating the Lake Whatcom Management Program (LWMP); and

WHEREAS, Lake Whatcom Management Program, 2010 five year work plan included updating stormwater regulations to address phosphorus loading from new development in the Lake Whatcom watershed; and

WHEREAS, Whatcom County council adopted the 2010 five year work plan in Resolution 2010-031; and

WHEREAS, the Washington State Department of Ecology has listed Lake Whatcom as an impaired waterbody and placed Lake Whatcom on the Federal Clean Water Act 303(d) list fecal coliform and low dissolved oxygen level; and
WHEREAS, the Washington State Department of Ecology has released the draft Lake Whatcom TMDL calling for significant reductions in phosphorus runoff from current conditions; and

WHEREAS, Whatcom County has addressed land use and stormwater in the Lake Whatcom watershed through Whatcom County Code (WCC) 20.71 Water Resource Protection Overlay, WCC 20.80.635 Stormwater Special Districts, and WCC 20.80.735 Water Resource Special Management Areas; and

WHEREAS, Whatcom County is combining land use and stormwater regulations from WCC 20.71, 20.80.635, and 20.80.735, along with updated criteria, to develop Chapter 20.51 Lake Whatcom Watershed Overlay District; and

WHEREAS, in 2008, the Whatcom County Council adopted Resolution 2008-048 declaring its intention to create a stormwater utility pursuant to RCW 36.89, and requesting the Executive to investigate various geographic limitations and funding options; and

WHEREAS, the Whatcom County Planning Commission held public hearings on November 17, 2011, January 12, 2012, and March 8, 2012 on the proposed zoning text amendment. The written public comment period was additionally held open between November 17, 2011, January 12, 2012, and March 8, 2012; and

WHEREAS, Whatcom County staff conducted a presentation on the proposed regulations to the Building Industry Association of Whatcom County on December 8, 2011; and

WHEREAS, Whatcom County staff facilitated a technical review of the proposed regulations with attendance by local engineering firms, City of Bellingham staff, and Department of Ecology staff on December 19, 2011; and

WHEREAS, on January 9, 2012, the Whatcom County Planning Commission held a special work session with presentations on the Lake Whatcom Total Maximum Daily Load (TMDL) and the National Pollutant Discharge Elimination System (NPDES) Phase II Permit by staff from the Department of Ecology; and

WHEREAS, Between March 23, 2011 and October 26, 2011, Whatcom County staff held (5) coordination meetings with the Department of Ecology to update and refine proposed regulations based on Whatcom County's letter of commitment dated March 10, 2011 to the Department of Ecology to expedite amending Title 20 to address criteria affecting development in the Lake Whatcom watershed.

WHEREAS, Whatcom County staff facilitated a technical review of the proposed regulations with attendance by local engineering firms on March 15, 2012; and

WHEREAS, Whatcom County Comprehensive Plan Goal 11G identifies protection of water resources and natural drainage systems by controlling the quantity and quality of stormwater runoff as an objective of Whatcom County; and


WHEREAS, In August of 2012 new state NPDES stormwater standards came into effect, and sections of proposed code needed to be modified to meet the stormwater design, protection, and maintenance standards of the 2012 Stormwater Management Manual for Western Washington; and

WHEREAS, In August of 2012, Whatcom County Ordinance 2012-023 added County development regulations by reference to the rural element section of the county comprehensive plan.

WHEREAS, the Washington Growth Management Act (GMA) requires county comprehensive plans to include a rural element that protects the county’s established rural character by containing or otherwise controlling rural development.

WHEREAS, GMA requires that the rural element of a county comprehensive plan provide measures governing rural development that protect the rural character by protecting critical areas, as provided in RCW 36.70A.060, and surface and ground water resources; and

WHEREAS, the Whatcom County Council finds the amendments to be in the best interest of the public health, safety and welfare; and

WHEREAS, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795;

1. The Lake Whatcom Watershed Overlay District amendments were docketed by Whatcom County Council on March 15, 2011.

2. Public Workshops were held on November 1, 2011 at the Whatcom County Council Chambers, and on November 2, 2011 at Bloedel-Donovan Park Facility.


5. Public comments, questions and concerns received were recorded in the public record and addressed in subsequent draft code as appropriate.


7. A determination of non-significance was issued under the State Environmental Policy Act (SEPA) on November 2, 2011.

8. An addendum to the May 1, 2009 determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 21, 2013.

9. GMA requires that the rural element of a county comprehensive plan provide measures governing rural development that protect the rural character by protecting critical areas, as provided in RCW 36.70A.060, and surface and ground water resources; and

10. Amendments to the Whatcom County Comprehensive Plan are proposed in response to the Washington State Growth Management Hearings Board’s January 4, 2013 Compliance Order (GMHB No. 11-2-0010c).

11. Whatcom County Comprehensive Plan policy 2DD – 2.C contains the required measures to protect critical areas and surface and groundwater resources. These measures reference Whatcom County code provisions on critical areas and water resources. The proposed amendments to Policy 2DD – 2.C reflect the new stormwater regulations within the Lake Whatcom Watershed by adding reference to WCC 20.51.

12. The new chapter protects water resources by requiring new development in the watershed to meet NPDES stormwater requirements and implement permanent best management practices that prevent and/or treat phosphorus to match the natural vegetated condition.

13. The Comprehensive Plan text amendments are being proposed pursuant to WCC 2.160.010.D.

14. The zoning text amendments are consistent with the processing requirements of WCC 20.90.050 and serve the public interest.

15. The amendments will not create an undue burden under section 1.11 of the County Charter.

16. The proposed amendments are consistent with the Comprehensive Plan, the Washington State Growth Management Act, and are in the public interest.
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County zoning code (WCC Title 20) is hereby amended as shown in Exhibit A, B, and C.

Section 2. The Whatcom County Comprehensive Plan is hereby amended as shown in Exhibit D.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ___ day of __________________ 2013.

ATTEST: 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Kathy Kershner, Council Chair

APPROVED as to form:

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed:______________
Chapter 20.51

LAKE WHATCOM WATERSHED OVERLAY DISTRICT

20.51.010 Purpose.
The Lake Whatcom Watershed Overlay District is intended to manage and treat stormwater runoff and establish more stringent standards on clearing activities and reduce the phosphorus loading into Lake Whatcom, in order to preserve and protect a unique and important water resource, Lake Whatcom. This district is designed to protect the long-term viability of Lake Whatcom as a drinking water source, and to comply with the requirements set forth by the Washington State Department of Ecology through the pending Lake Whatcom Total Maximum Daily Load (TMDL) by limiting the phosphorus loading into Lake Whatcom that results from land disturbing or conversion projects and work, and reduces phosphorus loading from existing sources.

20.51.030 Area and Applicability.
(1) The Lake Whatcom Watershed Overlay District is an overlay zone that covers the entire geographic area of the Lake Whatcom watershed within Whatcom County’s jurisdiction, and applies to all land disturbing or conversion projects, work or activities within the overlay zone.

(2) In the event that the provisions of this chapter conflict with the provisions of the Shoreline Management Program (WCC Title 23), Chapter 16.16 WCC, Critical Areas, the Whatcom County Development Standards, the provisions of the underlying zoning district or other applicable county policies or regulations, then the most restrictive shall apply; provided, that the minimum setback provisions established in WCC 20.51.340 shall prevail. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.51.040 Conformance.
The provisions of this chapter overlay other permit and approval requirements of the Whatcom County Code. All use and development shall conform to all relevant requirements and standards of:

(1) Whatcom County Code, Title 20, Zoning, except as modified by this chapter;
(2) The International Building and Fire Codes;
(3) Whatcom County Critical Area Ordinance 16.16;
(4) Flood Damage Prevention, Title 17;
(5) Subdivision, Title 21, except as modified by this chapter;
(6) Whatcom County Development Standards - Stormwater, Chapter 2, except as modified by this chapter;
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

(7) Whatcom County Development Standards, Stormwater Special Districts, Chapter 2-
Section 221, except as modified by this chapter;
(8) Whatcom County Code, Title 23, Shoreline Management Program;
(9) Whatcom County Code, Title 24 Health Code; and
All other applicable official controls

20.51.050 Permitted Uses.
All permitted uses in the underlying zone districts are permitted except as expressly
prohibited, made conditional, or further conditioned by this chapter.

.051 Private noncommercial greenhouses less than 250 square feet. (Ord. 2009-009 Exh.
§ 1, 2001; Ord. 99-086, 1999).

20.51.060 Accessory uses.
All accessory uses in the underlying zone districts are permitted except as expressly
prohibited or made conditional, or further conditioned by this chapter. (Ord. 2009-009 Exh.
§ 1, 2001; Ord. 99-086, 1999).

20.51.070 Conditional Uses.
All conditional uses in the underlying zone districts shall remain conditional uses unless
expressly prohibited, made conditional, or further conditioned by this chapter. In addition,
the following uses shall only be conditionally permitted:

.071 On-site storage facilities for hazardous wastes associated with outright permitted uses
or approved conditional uses, other than cottage industries as defined in WCC 20.51.095,
subject to the most current siting criteria under Chapter 173-303 WAC within the Rural,
Rural Forestry, Commercial Forestry, Neighborhood Commercial and Resort Commercial
Zone Districts only.

.072 Retail or wholesale plant nurseries or greenhouses for storage, propagation and
culture of plants, provided:

(1) Greenhouses shall not be larger than 1,000 square feet.

(2) Greenhouses and cultivated ground shall not be located within 250 feet of Lake
Whatcom or streams subject to the Shoreline Management Program; 200 feet from fish-
bearing streams; or 150 feet from other streams and their tributaries that flow into Lake
Whatcom.

(3) A monitoring program has been established to ensure that chemical and pesticide
quantities in stormwater runoff do not exceed state water quality standards. Complete
control of drainage from the operation shall be in effect. Such runoff will be tested for
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51

1. pollutants bimonthly by a licensed water quality testing agency. All requirements will be met at the owner’s expense.

3. (4) No person shall apply a commercial fertilizer, either liquid or granular, that is labeled as containing more than zero percent phosphorous or other compound containing phosphorous, such as phosphate; provided, that such fertilizers may be used for establishment of new vegetation in the first growing season.

7. **.073** Type I solid waste handling facilities, except:

8. (1) Moderate risk waste facilities; and


14. In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited, except as per Chapter 20.83 WCC:

16. **.081** Dry cleaning establishments.

17. **.082** Gas stations, service stations, combustion engine repair garages and automotive wrecking yards.

19. **.083** Sod farming.

20. **.084** Aquaculture and mariculture projects.

21. **.085** Operation of fur farms.

22. **.086** Confinement feeding operations.

23. **.087** Asphalt and concrete batch plants.

24. **.088** Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program.

26. **.089** Utilization of sewage sludge on land.

27. **.090** On-site treatment facilities for hazardous wastes.

28. **.091** Type I solid waste handling facilities, except those specified in WCC 20.51.073.

29. **.092** Type II, Type III, and Type IV solid waste handling facilities.

30. **.093** Golf courses.
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

.094 Cemeteries.

.095 Cottage industries that would require on-site hazardous waste storage facilities.

.096 Surface mining outside of designated Mineral Resource Lands (MRL) Special Districts; provided, that surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW) are permitted.

.097 Major passenger intermodal terminals.

.098 Freight railroad switching yards and terminals.

.099 Agriculture, including animal husbandry, horticulture, viticulture, floriculture, and the cultivation of crops.

.100 Animal hospitals and accessory kennels and stables.


20.51.300 Open space.

.301 Open space requirements shall be as follows:

(1) Open space areas shall be maintained in natural vegetation or landscaped per WCC 20.80.325.

(2) For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in open space calculations.

20.51.310 Cluster subdivisions.

The purpose of cluster subdivision is to provide a method of creating building lots with spatially efficient sizes. Clustering is intended to consolidate development and associated infrastructure, reduce development costs, and increase infrastructure efficiency. Clustering is also intended to help preserve open space and the character of areas, reduce total impervious surface area, and minimize development effects on critical areas and associated buffers, as defined in Chapter 16.16 WCC, and resource lands. Preservation of open space is thereby intended to reduce potential stormwater runoff and associated impacts while assuring protection of viable, undeveloped, and naturally vegetated corridors for wildlife habitat, protection of watersheds, preservation of critical areas, preservation of aesthetic values including view corridors, and preservation of trail and/or recreation areas. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-
EXHIBIT A - Whatcom County Code Proposed Chapter 20.51


20.51.320 Cluster design standards.
The creation of new building lots within the Lake Whatcom Watershed Overlay District shall be subject to the following design standards:

(1) Cluster subdivisions shall be required for all land divisions resulting in lots less than five acres in size, with the exception of boundary line adjustments.

(2) A cluster subdivision shall include a permanent open space reserve area meeting the criteria established in WCC 20.51.330.

(3) The minimum cluster lot size requirements of the underlying zone district shall apply.

(4) The maximum number of building lots in a lot cluster shall be 10.

(5) Clusters containing two or more lots of less than one acre within a proposed development shall be separated by at least 80 feet.

(6) Clustered building lots may only be created through the subdivision, short subdivision or binding site plan process pursuant to WCC Title 21.

(7) Building lots shall be designed and located to be compatible with, and avoid disturbance of, critical areas or known archaeological sites, as well as physical constraints of the site.

(8) Building lots shall be arranged in a cluster/concentrated pattern.

(9) A cluster subdivision shall have no more than two common encroachments on existing county roads unless site constraints require additional road access. The arrangement of clustered building lots shall be designed to avoid development forms commonly known as linear, straight line or highway strip patterns.

(10) As applicable, interior streets shall be designed to allow future vehicular access to any portion of the reserve tract which may be divided into future building lots; provided, that the required permanent open space reserve area, pursuant to WCC 20.51.330, shall not be further subdivided. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).

20.51.330 Open space reserve area.
For purposes of this title, an "open space reserve area" shall be defined as that portion of a subdivision or short subdivision set aside in accordance with this chapter, and permanently dedicated for active or passive recreation, critical area protection, natural resource or archaeological site preservation, wildlife habitat and/or visual enjoyment, and shall be consistent with the definition of "open space" pursuant to WCC 20.97.275.

(2) The open space reserve area shall be subject to the following provisions:
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51

(a) The minimum open space reserve area shall be determined by the minimum cluster subdivision reserve area requirements of the underlying zone district.

(b) A permanent open space reserve area shall be protected using one of the following mechanisms:

(i) Placement in a separate nonbuilding tract owned in common by all lots within the subdivision; or

(ii) Covered by a protective easement which protects at least the minimum required cluster reserve area specified in the underlying zone district; or

(iii) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as subsection (2)(b)(i) of this section as determined by the county zoning administrator or hearing examiner which applies to at least the minimum required cluster reserve area specified in the underlying zone district.

(c) The boundaries of the open space portion of the reserve area may be altered only if the county finds that in dedicating adjacent reserve areas it would further the objectives listed in WCC 20.51.310 by altering the reserve area and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in open space reserve area.

(d) The purpose of the open space reserve area as defined in subsection (1) of this section shall be recorded on the face of the final plat or short plat.

(e) The remaining unused development density and/or impervious surface allowances remaining on the parcel containing the open space reserve area, based on the gross density of the parent parcel, may be assigned to that portion of the reserve tract not subject to the minimum area requirements of subsection (2)(b) of this section. The density shall be recorded on the face of the final plat or short plat. The development rights assigned to the reserve tract in accordance with this subsection may not be transferred if the area associated with the reserve tract has been transferred to the other building lots within the subdivision.

(f) The requirements stated in subsections (2)(c) and (d) of this section shall be recorded as a restriction on the face of the final plat or short plat, and shall constitute an agreement between Whatcom County and the current/future owner(s) of record that shall run with the land. Said restriction(s) may be amended by mutual agreement between said parties after review for consistency and compliance with the official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance, and the Whatcom County Comprehensive Plan.

20.51.340 Building setback/buffer areas.

.341 Setbacks for all properties within the overlay district shall be as follows: Class I and Class II roads shall have a minimum setback of 30 feet; and Class III, IV and V roads shall
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51

1 have a minimum setback of 20 feet; provided, that the road right-of-way meets the
2 minimum standard for road rights-of-way pursuant to the Whatcom County Development
3 Standards.
4
5 .342 Roof overhangs or other overhanging architectural features shall not project further
6 than 18 inches into the side or rear yard setbacks. Such overhangs may extend three feet
7 into the front yard setback; however, in no case shall they extend more than one-half the
10 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-062 § 1, 2001; Ord. 2001-021 § 1,

12 20.51.350 Development criteria.

16 20.51.360 Parking space dimensions.
17 A standard parking space shall have the rectangular dimensions of 10 feet in width and 20
18 feet in length; provided, that for any parking area of six or more spaces, 50 percent of all
19 spaces may have the rectangular dimensions of eight feet in width and 15 feet in length;
20 and further provided, that these spaces are marked for use by compact automobiles. Except
21 in single-family residential areas, all dimensions shall be exclusive of driveways, aisles and
22 other circulation areas required under WCC 20.80.560 and 20.80.570. (Ord. 2009-009 Exh.
25 § 1, 2001; Ord. 99-086, 1999).

26 20.51.370 Parking requirements.
27 Parking shall conform to the requirements of WCC 20.80.500 through 20.80.590 unless
28 otherwise specified in this section. Minimum parking requirements may be reduced through
29 any of the following methods:

30 (1) A shared parking agreement has been filed with the county auditor establishing a shared
31 parking lot for land uses with noncompeting hours of operation, or for multitenant retail and
32 commercial facilities; provided, the parking lot is not located further than 700 feet from any
33 of the uses it is intended to serve.
34
35 (a) The minimum required parking in shared facilities shall be based on the land use
36 with the highest parking demand.
37
38 (b) Mixed use developments with similar operating hours may be required to submit a
39 parking demand study to determine if parking can be combined.
40
41 (2) A 20 percent reduction may be approved if an establishment is located within 1,000 feet
42 of any regularly scheduled bus stop.
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51


20.51.390 Vehicular access.
Driveways and curb cuts shall be minimized along all arterial and collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads with limited access to arterial or collector roads. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.51.400 Roads, curbs, gutters and sidewalks.
The intent of this section is to reduce impervious surfaces and stormwater runoff. Innovative street sections, which do not compromise public safety, shall be encouraged in the watershed. Narrow streets and reduced sidewalk standards that satisfy pedestrian and vehicular circulation requirements may be implemented with the approval of the Whatcom County public works department. Unless specifically required, roads shall not be wider than the minimum applicable standard. A rural road standard may be approved by the Whatcom County public works department for urban density residential areas where the developer provides adequate off-street parking and pedestrian walkways. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.51.410 Seasonal Clearing Activity Limitations
The intent of seasonal clearing activity limitations is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions. Implementation of best management practices, including phased clearing, tree retention and seasonal clearing limitations, is intended to limit the amount of exposed soils on site that are susceptible to erosion at any one time, thereby improving site stability during development and reducing potential for transport of dissolved pollutants and sediments off site. Preservation of existing trees on site also reduces the quantity and maintains the quality of stormwater leaving a site during and after development activities by encouraging interception, infiltration and evapotranspiration of rainfall and surface runoff.
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51

(1) County review and approval shall be required for all clearing activities associated with a fill and grade permit, building permit or other development proposal.

(2) Clearing activity, as defined in WCC 20.97.054, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:

(3) The zoning administrator may approve an exemption to this requirement for the following activities:

(a) Routine maintenance and repair of erosion and sediment control measures;

(b) Activities located at or waterward of the ordinary high water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) conditions of approval requiring commencement of clearing activity between October 1st and May 31st for purposes of minimizing surface water disturbance and site inundation by high water or wave action;

(c) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the applicant shall make a reasonable attempt to contact the zoning administrator prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the zoning administrator as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.

(d) The proposed activity does not involve the conversion of forest land, is outside critical areas and associated buffers, and is exclusively related to agriculture as defined in this title; or

(e) The proposed activity consists of non-conversion forest practices, other than Class IV-General forest practices on platted land, and other than those with an approved COHP regulated under Chapter 76.09 RCW; or

(4) To ensure compliance with subsection (2) of this section, Whatcom County planning and development services shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Whatcom watershed within two weeks prior to the watershed seasonal closure on October 1st.

(5) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The zoning administrator shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

(6) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.

(7) Within the Lake Whatcom Watershed Overlay District, clearing activity must conform to the following conditions:

(a) Temporary erosion and sediment control shall be installed and inspected prior to any clearing activity. The technical administrator shall conduct periodic inspections to ensure the integrity of temporary erosion and sediment controls. Temporary erosion and sediment control measures include, but are not limited to, installation of silt fencing, installation of check dams, covering of excavation piles, and mulching of exposed soils, as specified in the Whatcom County Development Standards.

(b) Phased Clearing. Construction activities and clearing activities shall be phased to limit the amount of exposed soil that occurs at any one time, if determined to be appropriate by the technical administrator, based on site characteristics or constraints including, but not limited to, slopes, proximity to shorelines and wetlands. A phased clearing plan may be required. A phased clearing plan, if required, shall be submitted for review and approval by the technical administrator prior to any clearing activity and shall contain a detailed construction schedule or timeline.

(c) Soil Stabilization. All disturbed areas shall be provided with soil stabilization within two days of the time of disturbance. The technical administrator may approve an exemption to this requirement when a tree canopy area retention plan includes a soil stabilization plan. This plan component must specifically detail erosion and sediment control and stormwater runoff measures that provide runoff control equal to or greater than the protection provided by the standard two-day soil stabilization requirements of this section.

20.51.420 Permanent Stormwater Management Systems

(1) Exemptions. This section does not apply to any of the following projects, work, or activities (which does not necessarily exempt them from other stormwater related titles and/or standards that might otherwise apply; see WCC 20.51.040(6), WCC 20.51.040(7) and WCC 20.80.630(3)) within the Lake Whatcom Watershed Overlay District:

(a) Installations of, and/or repairs to, and/or replacements of, any of the following facilities:

1. Below grade:
   i. Pipe,
   ii. Conduit,
   iii. Ductwork,
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

iv. Cabling and wiring (direct burial or conduit encased),

2. Above grade:
   i. Utility or light poles,
   ii. Communication and/or data transmission systems pedestals,

3. Below grade, at grade, and/or above grade appurtenances to any of the above respective facilities.

(b) Roof replacements and/or conversions at the same, or less, surface area. Conversions to metal roofs require coatings with inert non-leachable materials.

(c) Deck, porch, and/or other raised surfaces area replacements at the same, or less, surface area.

(d) Land disturbing activities (per WCC 20.97 definition) of less than 5,000 square feet in total area, excluding any impervious surface area work within the land area disturbed.

(e) Projects, work, or activities that will create less than:
   1. 501 square feet of previously nonexistent impervious surface area and/or permeable pavement area (per WCC 20.97 definitions), and/or
   2. 1,501 square feet of replaced impervious surface area and/or replaced permeable pavement area (per WCC 20.97 definitions).

(f) Maintenance (e.g., debris, moss, and/or mildew removal) of existing impervious surface areas and/or permeable pavement areas. Pre-existing nonconforming impervious surfaces may be routinely maintained/repaired.

(g) If a legal nonconforming structures are destroyed, the nonconforming use may be reconstructed using the pre-existing footprint. Damage repairs (e.g., from fire, wind, falling trees or limbs, flooding) to existing impervious surface areas and/or permeable pavement areas within their same respective existing footprints. Expansion of nonconforming impervious surfaces shall be subject to this ordinance.

(h) For a Single Family Dwelling that meets all of the following:
   1. To be located within the platted boundaries of, and in general belonging to, an incorporated homeowners association; and
   2. Which association has a stormwater runoff management and phosphorus mitigation plan that provides at least the same level of overall protection from and/or treatment of phosphorus runoff to Lake Whatcom as would the application of WCC 20.51.420(2) to any of the individual parcels therein that may be developed; and
EXHIBIT A-Whatcom County Code Proposed Chapter 20.51

3. Which plan is in effect through an ongoing implementation program, applicable to all newly developed parcels within that association's boundaries, as well as to the association as a whole; and

4. Which plan and program have been agreed to by a memorandum of agreement between Whatcom County and the Incorporated Homeowners Association; and


(2) Best Management Practices.

(a) Unless otherwise exempt per WCC 20.51.420(1), or unless a standard land use vesting determination concludes otherwise, all projects, work, or activities, including subdivisions, binding site plans, and non-exempt new short subdivision parcels, proposed to occur within the Lake Whatcom Watershed Overlay District shall incorporate presumptive BMPs and/or demonstrative BMPs, per WCC 20.51.420(2)(c) and/or WCC 20.51.420(2)(d), respectively, to:

(1) All project, work, or activity affected:

i. Net land area disturbed (per WCC 20.97 definition, and/or

ii. Newly created and/or replaced:

A. Net new impervious surface area (per WCC 20.97 definition), and/or

B. Net replaced impervious surface area (per WCC 20.97 definition), and/or

C. Net new permeable pavement area (per WCC 20.97 definition), and/or

D. Net replaced permeable pavement area (per WCC 20.97 definition), and/or

(2) Existing off-parcel phosphorus-unmitigated areas and/or on-parcel phosphorus-unmitigated areas within the entire Lake Whatcom Watershed at a 2:1 ratio of phosphorus-unmitigated area to the corresponding project, work, or activity affected area(s) that WCC 20.51.420(2)(a)(1)(i) – (ii) outlines.

(3) The developable areas and infrastructure as required for long and short subdivision approval. A stormwater management plan for developable areas and required infrastructure, consistent with the 2012 Stormwater Management Manual for Western Washington is required prior to primarily plat approval. Installation of required BMPs for infrastructure is required prior to final plat approval.

(b) The development stormwater runoff (per WCC 20.97 definition) phosphorus loading profile from each phosphorus-mitigated area noted in WCC 20.51.420(2)(a)(1) & (2) shall not exceed the corresponding natural stormwater runoff (per WCC 20.97
EXHIBIT A—Whatcom County Code Proposed Chapter 20.51

definition) phosphorus loading profile from each respective phosphorus-mitigated area.

(c) Presumptive BMPs (per WCC 20.97 definition). Presumptive BMPs, which are combinable with each other and with demonstrative BMPs, follow:

1. Full infiltration and downspout full infiltration. See the 2012 Stormwater Management Manual for Western Washington BMP T5.10A Volume III Section 3.1.1 and Volume III Chapter III Section 3.3.9(A). Use of these BMPs may require an engineered design (per WCC 20.97 definition).

2. Full dispersion:

i. See current Stormwater Management Manual for Western Washington Volume V Chapter 5 BMP T5.30. This BMP might, but does not necessarily, require an engineered design. See the 2012 Stormwater Management Manual for Western Washington Volume V, Chapter 5, pages 5-30 through 5-38 for further design requirements and infeasibility criteria.

(d) Demonstrative BMPs (per WCC 20.97 definition). Demonstrative BMPs, which are combinable with each other and with presumptive BMPs, use engineered designs that, once constructed or installed, and presuming that system preservation activities occur as prescribed by the design engineer, will satisfy the 2012 Stormwater Management Manual for Western Washington Minimum Requirements numbers 3 through 9, disregarding any Minimum Requirement applicability thresholds therein, while also conforming to at least one of the following:

1. The engineered design limits the estimated phosphorus loading in development stormwater runoff to less than 0.1875 lb of P/acre/year. Engineered designs shall cite and use only WSDOE-approved references for estimated phosphorus loading information and criteria.

2. The monthly development stormwater runoff volume does not exceed the monthly natural stormwater runoff volume of the project, work, or activity affected areas, as determined by a WSDOE-approved continuous runoff model.

3. Development stormwater runoff does not occur

(3) System Recording, Protection, and Maintenance. A declaration of covenant shall be recorded for each property where permanent stormwater BMPs exist. The covenant is used to protect the stormwater management facilities from cover by structures or impervious material, soil compaction, and damage by soil removal and grade alteration. A draft of the proposed covenant must be reviewed and approved by Whatcom County prior to recording. All required covenants must be recorded prior to final permit issuance for the proposed project.

(a) Notice on Title: For all permanent stormwater facilities, the type of stormwater system and location shall be recorded with the County Auditor real estate records in a format similar to the recording documents in Whatcom County Development
Standards, Chapter 2, Section 221. The recording document provides notice to future owners of the presence of stormwater system on the lot, and shall contain:

(i) A site plan to scale, showing the location and descriptions of stormwater facilities, treatment BMPs, terrain features, Protective Native Growth Areas, and stormwater flowpaths.

(ii) Notice of the property owner’s responsibility to retain, uphold, and protect the devices, features, pathways, Protective Native Growth Areas, and operate and maintain BMPs at the owner’s expense.

(b) Protected Native Growth Area (PNGA): For projects that utilize dispersion for their stormwater system, a Protected Native Growth Area covenant shall be required to:

(i) Include native plant species including, but not limited to, those on approved lists provided by Whatcom County common to this region.

(ii) Be described in the recorded documents as “a Protected Native Growth Area established for the purposes of dispersing and treating stormwater flows.”

(iii) Retain all vegetation and trees within the PNGA at the time of permit application aside from approved timber harvest activities and the removal of hazardous and diseased trees (as defined in Chapter 20.97 WCC), an evaluation and determination by an ISA licensed arborist may be required.

(iv) The PNGA can include onsite critical areas and its buffer,

(v) Limit uses in the PNGA to those specified in WCC 16.16.

(vi) Provide a Notice of Activity consistent with WCC 16.16.235, to remove trees within a PNGA when a permit is not required by 20.51.420(1), under the following circumstances:

1. Fire prevention methods when supported by the county fire marshal;
2. Hazard trees, as defined in Chapter 20.97 WCC, are identified (an evaluation and determination by a licensed arborist may be required);
3. Encroachments where the trunk, branches, or roots would be, or are in contact with main or accessory structures; or
4. Where installation and/or maintenance of roads or utilities would unavoidably require removal or cutting through the root system.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

Chapter 20.71
WATER RESOURCE PROTECTION OVERLAY DISTRICT*

Sections:

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*Prior legislation: Ord. 2003-035, which expired March 20, 2009, was formerly codified in this chapter.

20.71.010 Purpose.

The Water Resource Protection Overlay District is an overlay zone that is intended to impose additional controls to preserve and protect unique and important water resources within Whatcom County. This district is designed to protect the long-term viability of the Lake Whatcom, Lake Samish and Lake Padden watersheds while creating a regulatory framework to address the needs of these watersheds that are not otherwise provided for in the underlying zone districts. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-085, 1999).

20.71.020 Application.


20.71.021 Area and applicability.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(1) The Water Resource Protection Overlay District is an overlay zone that covers the entire geographic area of the Lake Whatcom, Lake Samish and Lake Padden watersheds within Whatcom County’s jurisdiction. For purposes of this title, the Lake Samish watershed shall consist of that portion of the Friday Creek subbasin of the Samish River watershed that lies within Whatcom County.

(2) This district may be expanded to include other areas through the annual zoning text amendment process.

(3) The Lake Whatcom, Lake Samish and Lake Padden watersheds are also designated as stormwater special districts pursuant to WCC 20.80.635 and water resource special management areas pursuant to WCC 20.80.735.

(4) In the event that the provisions of this chapter conflict with the provisions of the Shoreline Management Program (WCC Title 23), Chapter 16.16 WCC, Critical Areas, the Whatcom County Development Standards, the provisions of the underlying zoning district or other applicable county policies or regulations, then the most restrictive shall apply; provided, that the minimum setback provisions established in WCC 20.71.401 shall prevail. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.050 Permitted uses.
All permitted uses in the underlying zone districts are permitted except as expressly prohibited, made conditional, or further conditioned by this chapter.


20.71.100 Accessory uses.

20.71.150 Conditional uses.
All conditional uses in the underlying zone districts shall remain conditional uses unless expressly prohibited, made conditional, or further conditioned by this chapter. In addition, the following uses shall only be conditionally permitted:

.151 On-site storage facilities for hazardous wastes associated with outright permitted uses or approved conditional uses, other than cottage industries as defined in WCC 20.71.215, subject to the most current
siting criteria under Chapter 173-303 WAC within the Rural, Rural Forestry, Commercial Forestry, Neighborhood Commercial and Resort Commercial Zone Districts only.

.152 Retail or wholesale plant nurseries or greenhouses for storage, propagation and culture of plants, provided:

(1) Greenhouses shall not be larger than 1,000 square feet.

(2) Greenhouses and cultivated ground shall not be located within 250 feet of Lake Whatcom, Lake Samish, Lake Padden or streams subject to the Shoreline Management Program; 200 feet from fish-bearing streams; or 150 feet from other streams and their tributaries that flow into Lake Whatcom, Lake Samish or Lake Padden.

(3) A monitoring program has been established to ensure that chemical and pesticide quantities in stormwater runoff do not exceed state water quality standards. Complete control of drainage from the operation shall be in effect. Such runoff will be tested for pollutants bimonthly by a licensed water quality testing agency. All requirements will be met at the owner’s expense.

(4) No person shall apply a commercial fertilizer, either liquid or granular, that is labeled as containing more than zero percent phosphorous or other compound containing phosphorous, such as phosphate; provided, that such fertilizers may be used for establishment of new vegetation in the first growing season.

.185 Type I solid waste handling facilities, except:

(1) Moderate risk waste facilities; and


20.71.200 Prohibited uses.
In addition to the uses prohibited in the underlying zone districts, the following uses are prohibited, except as per Chapter 20.83 WCC:

.201 Dry cleaning establishments.

.202 Gas stations, service stations, combustion engine repair garages and automotive wrecking yards.

.203 Sod farming.

.204 Aquaculture and mariculture projects.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

.205 Operation of fur farms.

.206 Confinement feeding operations.

.207 Asphalt and concrete batch plants.

.208 Gravel bar scalping projects within the jurisdiction of the Shoreline Management Program.

.209 Utilization of sewage sludge on land.

.210 On-site treatment facilities for hazardous wastes.

.211 Type I solid waste handling facilities, except those specified in WCC 20.71.185.

.212 Type II and Type III solid waste handling facilities.

.213 Golf courses.

.214 Cemeteries.

.215 Cottage industries that would require on-site hazardous waste storage facilities.

.216 Surface mining outside of designated Mineral Resource Lands (MRL) Special Districts; provided, that surface mining, rock crushing, washing and sorting subject to the Forest Practices Act (Chapter 76.09 RCW) are permitted.

.217 Major passenger intermodal terminals.

.218 Freight railroad switching yards and terminals.

.219 Agriculture, including animal husbandry, horticulture, viticulture, floriculture, and the cultivation of crops.

.220 Animal hospitals and accessory kennels and stables.


20.71.300 Open space and impervious surfaces.

.301 Open space requirements shall be as follows:

(1) For uses in the TC and NC Zones, at least 25 percent of the parcel shall be reserved as open space.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(2) For uses in the RC Zone, at least 40 percent of the parcel shall be reserved as open space.

(3) Open space areas shall be maintained in natural vegetation or landscaped per WCC 20.80.325.

(4) For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in open space calculations.

.302 Impervious surface requirements shall be as follows:

(1) For uses in the UR, URM and RR Zone Districts, at least 80 percent of the lot or parcel shall be kept free of structures and impervious surfaces.

(2) For uses in the R Zone District, at least 90 percent of the lot or parcel shall be kept free of structures and impervious surfaces.

(3) Where subsection (1) or (2) of this section does not allow 2,500 square feet of total impervious surface area, 2,500 square feet shall be allowed.

(4) Two or more lots of record consolidated pursuant to the provisions of WCC 20.83.070 shall be treated as one undivided parcel for the purpose of calculating total allowable impervious surface. Where two or more lots or parcels are consolidated; are not subject to the provisions of WCC 20.83.070; and are not subject to a permanent restrictive covenant that precludes development of buildings, structures or other improvements not otherwise identified by said covenant, 4,000 square feet of impervious surface shall be allowed.

(5) Preexisting nonconforming impervious surfaces may be routinely maintained/repaired or redeveloped; provided, that if 50 percent or greater of the preexisting nonconforming impervious area is to be redeveloped, then the applicable impervious surface limitations of subsections (1), (2) and (3) of this section shall apply. However, if a legal nonconforming structure is destroyed, the nonconforming use may be reconstructed using the pre-existing footprint. Expansion of nonconforming impervious surfaces shall be prohibited.

(6) A mobile home within an existing mobile home park may be replaced with a larger mobile home (not to exceed a maximum of 1,500 square feet), provided there is not an increase in the overall number of mobile homes in the park or any increase in other impervious surfaces beyond the new mobile home footprint.

(7) For properties within the jurisdiction of the Shoreline Management Program (WCC Title 23), submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in impervious/permeable surface calculations.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(8) Any portion of a roof overhang or other overhanging architectural feature which projects further than three feet from the footprint of a structure shall be calculated as impervious surface.


20.71.350 Cluster subdivisions.
The purpose of cluster subdivision is to provide a method of creating building lots with spatially efficient sizes. Clustering is intended to consolidate development and associated infrastructure, reduce development costs, and increase infrastructure efficiency. Clustering is also intended to help preserve open space and the character of areas, reduce total impervious surface area, and minimize development effects on critical areas and associated buffers, as defined in Chapter 16.16 WCC, and resource lands. Preservation of open space is thereby intended to reduce potential stormwater runoff and associated impacts while assuring protection of viable, undeveloped, and naturally vegetated corridors for wildlife habitat, protection of watersheds, preservation of critical areas, preservation of aesthetic values including view corridors, and preservation of trail and/or recreation areas. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.351 Cluster design standards.
The creation of new building lots within Water Resource Protection Overlay Districts shall be subject to the following design standards:

(1) Cluster subdivisions shall be required for all land divisions resulting in lots less than five acres in size, with the exception of boundary line adjustments.

(2) A cluster subdivision shall include a permanent open space reserve area meeting the criteria established in WCC 20.71.352.

(3) The minimum cluster lot size requirements of the underlying zone district shall apply.

(4) The maximum number of building lots in a lot cluster shall be 10.

(5) Clusters containing two or more lots of less than one acre within a proposed development shall be separated by at least 80 feet.

(6) Clustered building lots may only be created through the subdivision, short subdivision or binding site plan process pursuant to WCC Title 21.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(7) Building lots shall be designed and located to be compatible with, and avoid disturbance of, critical areas or other valuable or unique natural resources or known archaeological sites, as well as physical constraints of the site.

(8) Building lots shall be arranged in a cluster/concentrated pattern.

(9) A cluster subdivision shall have no more than two common encroachments on existing county roads unless site constraints require additional road access. The arrangement of clustered building lots shall be designed to avoid development forms commonly known as linear, straight line or highway strip patterns.

(10) As applicable, interior streets shall be designed to allow future vehicular access to any portion of the reserve tract which may be divided into future building lots; provided, that the required permanent open space reserve area, pursuant to WCC 20.71.352, shall not be further subdivided. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2005-048 Exh. A, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002).

20.71.352 Open space reserve area.

(1) For purposes of this title, an “open space reserve area” shall be defined as that portion of a subdivision or short subdivision set aside in accordance with this chapter, and permanently dedicated for active or passive recreation, critical area protection, natural resource or archaeological site preservation, wildlife habitat and/or visual enjoyment, and shall be consistent with the definition of “open space” pursuant to WCC 20.97.275.

(2) The open space reserve area shall be subject to the following provisions:

(a) The minimum open space reserve area shall be determined by the minimum cluster subdivision reserve area requirements of the underlying zone district.

(b) A permanent open space reserve area shall be protected using one of the following mechanisms:

(i) Placement in a separate nonbuilding tract owned in common by all lots within the subdivision; or

(ii) Covered by a protective easement or public or private land trust dedication which protects at least the minimum required cluster reserve area specified in the underlying zone district; or

(iii) Preserved through an appropriate permanent protective mechanism that provides the same level of permanent protection as subsection (2)(b)(i) of this section as determined by
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

the county zoning administrator or hearing examiner which applies to at least the minimum required cluster reserve area specified in the underlying zone district.

(c) The boundaries of the open space portion of the reserve area may be altered only if the county finds that in dedicating adjacent reserve areas it would further the objectives listed in WCC 20.71.350 by altering the reserve area and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in open space reserve area.

(d) The purpose of the open space reserve area as defined in subsection (1) of this section shall be recorded on the face of the final plat or short plat.

(e) The remaining unused development density and/or impervious surface allowances remaining on the parcel containing the open space reserve area, based on the gross density of the parent parcel, may be assigned to that portion of the reserve tract not subject to the minimum area requirements of subsection (2)(b) of this section. The density shall be recorded on the face of the final plat or short plat. The development rights assigned to the reserve tract in accordance with this subsection may not be transferred if the pervious surface area associated with the reserve tract has been transferred to the other building lots within the subdivision.

(f) The requirements stated in subsections (2)(c) and (d) of this section shall be recorded as a restriction on the face of the final plat or short plat, and shall constitute an agreement between Whatcom County and the current/future owner(s) of record that shall run with the land. Said restriction(s) may be amended by mutual agreement between said parties after review for consistency and compliance with the official Whatcom County Zoning Ordinance, the Whatcom County Subdivision Ordinance, and the Whatcom County Comprehensive Plan.


20.71.400 Building setback/buffer areas.

.401 Setbacks for all properties within the overlay district shall be as follows: Class I and Class II roads shall have a minimum setback of 30 feet; and Class III, IV and V roads shall have a minimum setback of 20 feet; provided, that the road right-of-way meets the minimum standard for road rights-of-way pursuant to the Whatcom County Development Standards.

.402 Roof overhangs or other overhanging architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend three feet into the front yard setback;
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.71.600 Development criteria.

20.71.601 Parking space dimensions.
A standard parking space shall have the rectangular dimensions of 10 feet in width and 20 feet in length; provided, that for any parking area of six or more spaces, 50 percent of all spaces may have the rectangular dimensions of eight feet in width and 15 feet in length; and further provided, that these spaces are marked for use by compact automobiles. Except in single-family residential areas, all dimensions shall be exclusive of driveways, aisles and other circulation areas required under WCC 20.80.560 and 20.80.570. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.602 Parking requirements.
Parking shall conform to the requirements of WCC 20.80.500 through 20.80.590 unless otherwise specified in this section. Minimum parking requirements may be reduced through any of the following methods:

(1) A shared parking agreement has been filed with the county auditor establishing a shared parking lot for land uses with noncompeting hours of operation, or for multitenant retail and commercial facilities; provided, the parking lot is not located further than 700 feet from any of the uses it is intended to serve.

   (a) The minimum required parking in shared facilities shall be based on the land use with the highest parking demand.

   (b) Mixed use developments with similar operating hours may be required to submit a parking demand study to determine if parking can be combined.

(2) A 20 percent reduction may be approved if an establishment is located within 1,000 feet of any regularly scheduled bus stop.

(3) The zoning administrator determines that a reduced requirement will reduce overall impervious surfaces while maintaining consistency with this title. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1,
Exhibit B – Removal of "Lake Whatcom watershed" reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.71.603 Alternative surfacing methods.
Alternative surfaces including, but not limited to, bark or wood mulch, washed gravel, grid/lattice systems, permeable interlocking pavers, pervious concrete, porous asphalt, and other similar approved materials are encouraged. Alternative surfacing methods may be approved for fringe or overflow parking areas; emergency parking areas, private roads, fire lanes, road shoulders, bike paths, walkways, patios, driveways, and easement service roads in residential or commercial zones unless site constraints make use of such materials detrimental to water quality. Utilization of alternative surfacing methods shall be subject to review and approval by the Whatcom County public works department, the fire marshal and/or the county ADA coordinator for compliance with other applicable regulations and development standards. Surfaces shall be considered impervious surfaces under WCC 20.71.300 unless the following conditions are met:

(1) Bark, wood mulch, and washed gravel shall be designed and installed so that all rain water falling upon the alternative surface will be infiltrated directly beneath the alternative surface without generating surface runoff based on the one-year, 24-hour storm event.


20.71.604 Vehicular access.
Driveways and curb cuts shall be minimized along all arterial and collector roads. Each existing lot shall be allowed only one driveway or curb cut; adjacent lots are encouraged to share access points. In new developments, lots or leased sites shall be oriented toward internal driveways, parking areas, or roads with limited access to arterial or collector roads. (Ord. 2009-009 Exh. A, 2009; Ord. 2005-085 § 1, 2005; Ord. 2004-007 § 1, 2004; Ord. 2003-049 § 1, 2003; Ord. 2003-032 Exh. A, 2003; Ord. 2002-075, 2002; Ord. 2002-034, 2002; Ord. 2001-021 § 1, 2001; Ord. 99-086, 1999).

20.71.700 Roads, curbs, gutters and sidewalks.
The intent of this section is to reduce impervious surfaces and stormwater runoff. Innovative street sections, which do not compromise public safety, shall be encouraged in the watershed. Narrow streets and reduced sidewalk standards that satisfy pedestrian and vehicular circulation requirements may be implemented with the approval of the Whatcom County public works department. Unless specifically
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.80.635 Stormwater special districts.
(1) Whatcom County shall establish the following geographical areas as stormwater special districts:

(a) Drayton Harbor watershed.

(b) Lake Whatcom watershed.

(c) Lake Samish watershed.

(d) Birch Bay watershed.

(e) Lake Padden watershed.


20.80.636 Stormwater special district requirements.
In areas designated as stormwater special districts (per WCC 20.80.635), permanent on-site stormwater quality and quantity facilities shall be required on all lots less than five acres in size for projects that meet either of the following criteria:

(1) New construction or remodels that increase impervious surfaces by more than 500 square feet; or

(2) Renovation projects where the estimated cost of the work exceeds 50 percent of the assessed value of the existing structure. Interior remodels, nonpolluting roof replacements, house maintenance and energy upgrades shall be exempt from this requirement.

If stormwater quality and quantity facilities are required based on either of these criteria, the provisions of the Whatcom County Development Standards, Chapter 2, Section 221, shall apply to the entire property, unless it can be demonstrated that off-site facilities would provide better treatment, or unless common detention and water quality facilities meeting the standards of the 1996 Whatcom County Development Standards or the 1992 Department of Ecology Stormwater Management Manual for the Puget Sound.
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735


20.80.735 Water resource special management areas.
The purpose of a water resource special management area is to establish a more stringent standard for clearing activity in highly valued water resource areas, environmentally sensitive areas, or areas where natural conditions are so unstable that clearing activity in the areas can result in hazardous conditions. Implementation of best management practices, including phased clearing, tree retention and seasonal clearing limitations, is intended to limit the amount of exposed soils on site that are susceptible to erosion at any one time, thereby improving site stability during development and reducing potential for transport of dissolved pollutants and sediments off site. Preservation of existing trees on site also reduces the quantity and maintains the quality of stormwater leaving a site during and after development activities by encouraging interception, infiltration and evapotranspiration of rainfall and surface runoff.

Whatcom County shall establish the following geographic areas as water resource special management areas:

- Lake Whatcom watershed;
- Drayton Harbor watershed;
- Lake Padden watershed;
- Lake Samish watershed; and
- Birch Bay watershed.

(1) Water Resource Special Management Area Review Thresholds. County review and approval shall be required for clearing activities which exceed the following thresholds. If the clearing activity does not meet the threshold criteria, county review is not required. However, the owner is still subject to, and must comply with, the minimum requirements established in this chapter and in the Whatcom County Development Standards.

   (a) Lake Whatcom, Lake Samish and Lake Padden Watersheds. County review and approval shall be required for all clearing activities associated with a fill and grade permit, building permit or other
development proposal. Clearing activities which are not associated with a development permit shall require county review if they are:

(i) Five thousand square feet or greater during the dry season, June 1st through September 30th; or

(ii) Five hundred square feet or greater during the wet season, October 1st through May 31st.

(2) Within water resource special management areas, clearing activity must conform to the following conditions:

(a) Temporary erosion and sediment control shall be installed and inspected prior to any clearing activity. The technical administrator shall conduct periodic inspections to ensure the integrity of temporary erosion and sediment controls. Temporary erosion and sediment control measures include, but are not limited to, installation of silt fencing, installation of check dams, covering of excavation piles, and mulching of exposed soils, as specified in the Whatcom County Development Standards.

(b) Phased Clearing. Construction activities and clearing activities shall be phased to limit the amount of exposed soil that occurs at any one time, if determined to be appropriate by the technical administrator, based on site characteristics or constraints including, but not limited to, slopes, proximity to shorelines and wetlands. A phased clearing plan may be required. A phased clearing plan, if required, shall be submitted for review and approval by the technical administrator prior to any clearing activity and shall contain a detailed construction schedule or timeline.

(c) Soil Stabilization. All disturbed areas shall be provided with soil stabilization within two days of the time of disturbance. The technical administrator may approve an exemption to this requirement when a tree canopy area retention plan includes a soil stabilization plan. This plan component must specifically detail erosion and sediment control and stormwater runoff measures that provide runoff control equal to or greater than the protection provided by the standard two-day soil stabilization requirements of this section.

(d) Tree Canopy Area Retention. In the Lake Whatcom, Lake Samish and Lake Padden watersheds, in addition to compliance with all other requirements of this title and other titles of the Whatcom County Code, clearing activities on any lot or parcel, with the exception of nonconversion forest practices occurring on lands platted after January 1, 1960, shall comply with the following provisions:

(i) Existing tree canopy areas, as defined by the dripline of the tree(s), may be removed for purposes of a building site, driveways, parking areas, and areas to be landscaped, but such
areas shall not exceed a cumulative total of 5,000 square feet or 35 percent of the existing tree canopy area, whichever is greater.

(ii) The following criteria shall be used to determine which tree canopy areas are to be prioritized for retention:

(A) Stands of mature native trees;

(B) Trees on sensitive slopes, on lands classified as having landslide hazards, or high erosion hazards, as defined under the critical areas ordinance;

(C) Trees within critical areas or their associated setback and/or buffer areas as defined under WCC Title 16 or 23; or

(D) Trees with significant habitat value as identified by a qualified wildlife biologist or by the technical administrator, per WCC Title 16.

(iii) Existing trees and vegetation may be used to meet all or part of the landscaping requirements of this title.

(iv) The county shall require that tree canopy areas to be retained are identified on a site plan and clearly flagged, or delineated, on the site. A tree canopy area retention plan must accompany a project or clearing permit application and be approved by the technical administrator before clearing activity takes place. The plan shall contain the following components:

(A) A scaled drawing identifying the following:

1. North arrow;

2. Property boundaries;

3. Existing structures;

4. Site access;

5. Tree canopy areas to be removed;

6. The outer dripline of tree canopy areas to be retained;

7. Critical areas including, but not limited to, slopes, wetlands, and habitat conservation areas;
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

8. Protection measures to be utilized for areas that will be undisturbed; and

9. Areas to be replanted pursuant to subsection (2)(d)(vii) of this section;

(B) A planting schedule that indicates the time frame for replanting of trees as applicable; and

(C) Provisions for maintenance and monitoring.

(v) Prior to any clearing activity or development activity, any tree canopy area designated for retention shall be delineated by temporary fencing, tape, or other indicators around the outer dripline of the trees. Temporary fencing, tape, or other indicators shall be clearly visible and shall be maintained for the duration of the proposed clearing or development activity. Any tree canopy areas designated for retention shall be field verified by the technical administrator before clearing activities begin. Trees within canopy areas designated for retention shall not be damaged by clearing, excavation, ground surface level changes, soil compaction, or any other activities that may cause damage to roots or trunks. Machinery, impervious surfaces, fill and storage of construction materials shall be kept outside of the dripline of the tree canopy areas designated for retention.

(vi) Tree canopy areas may be removed when limited to those canopy areas affected under the following circumstances:

(A) Fire prevention methods when supported by the county fire marshal;

(B) Hazard trees, as defined in Chapter 20.97 WCC, are identified (an evaluation and determination by a licensed arborist or forester may be required);

(C) Encroachments where the trunk, branches or roots would be, or are, in contact with main or accessory structures; or

(D) Where installation and/or maintenance of roads or utilities would unavoidably require removal or cutting through the root system.

(vii) In the event that tree canopy areas in excess of the applicable threshold must be removed to facilitate reasonable use of the site, or to eliminate hazard trees, not less than two replacement trees shall be planted for every tree removed. Replacement trees shall:

(A) Be of the same, or similar, native species as those trees removed from site;

(B) Be planted to re-establish tree clusters where they previously existed, or to enhance protected tree clusters;
Exhibit B – Removal of "Lake Whatcom watershed" reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

(C) Be planted in locations appropriate to the species’ growth habitat and horticultural requirements; and

(D) Be located away from areas where damage is likely.

(viii) If any trees within canopy areas designated for retention are damaged or destroyed through the fault of the applicant, agent or successor, the applicant, their agent or successor shall restore the site pursuant to a restoration plan approved by the county.

(ix) The county may require a bond or other security in an amount not to exceed 125 percent of the merchantable timber to guarantee retention of existing trees within designated canopy areas during construction. In the event of a dispute between the landowner and the county over the established value, an assessment will be made by a professional forester or arborist whose selection will be made by mutual agreement between the county and the landowner. The fee for the services of the professional forester or arborist shall be paid by the landowner or responsible party. In the event any trees designated to be retained are removed, the county shall require that sufficient trees be re-planted to replace those previously in existence. In the event that replanting does not occur, the county may enforce upon any bond posted. Each tree removed or destroyed shall constitute a separate violation.

(e) Seasonal Clearing Activity Limitations. In the Lake Whatcom, Lake Samish and Lake Padden watersheds, clearing activity, as defined in WCC 20.97.054, that will result in exposed soils exceeding 500 square feet shall not be permitted from October 1st through May 31st; provided, that:

(i) In addition to the clearing activities exempted under WCC 20.80.733, the zoning administrator may approve an exemption to this requirement for the following activities:

(A) Routine maintenance and repair of erosion and sediment control measures;

(B) Activities located at or waterward of the ordinary high water mark subject to state, federal, and/or local (per Chapter 16.16 WCC and/or WCC Title 23) conditions of approval requiring commencement of clearing activity during the wet season, as defined in subsection (1)(a)(ii) of this section, for purposes of minimizing surface water disturbance and site inundation by high water or wave action;

(C) Activities necessary to address an emergency that presents an unanticipated and imminent threat to public health, safety or the environment that requires immediate action within a time too short to allow full compliance with this section. Upon abatement of the emergency situation, the clearing activity shall be reviewed for consistency with this chapter and may be subject to additional permit requirements; provided, that the
Exhibit B – Removal of “Lake Whatcom watershed” reference in Whatcom County Code Sections 20.71, 20.80.635, and 20.80.735

applicant shall make a reasonable attempt to contact the zoning administrator prior to the activity. When prior notice is not feasible, notification of the action shall be submitted to the zoning administrator as soon as the emergency is addressed and no later than two business days following such action. Emergency construction does not include development of new permanent protective structures where none previously existed.

(ii) To ensure compliance with subsection (2)(e) of this section, Whatcom County planning and development services shall not issue development permits requiring more than 500 square feet of land disturbance located within the Lake Whatcom, Lake Samish or Lake Padden watersheds within two weeks prior to the watershed seasonal closure on October 1st.

(iii) Soil disturbance associated with an exempt clearing activity shall be minimized to the maximum extent practicable. The zoning administrator shall have the authority to condition an exempt activity to ensure that temporary erosion and sediment control measures will be implemented.

(iv) An exemption from the seasonal land clearing requirements of this section does not grant authorization for any work to be done in a manner that does not comply with other provisions of this chapter or other applicable development regulations.

EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

Current Stormwater Manual- The Washington State Department of Ecology (WSDOE) Stormwater Management Manual for Western Washington edition that is in effect on the date that the County receives a complete application for the project, work, or activity.

Demonstrative BMPs- Those BMPs that do not otherwise qualify as presumptive.

Development stormwater- Stormwater that results from non-native vegetated areas.

Development runoff- Runoff that results from non-native vegetated areas.

Development stormwater runoff- Stormwater runoff that originates from non-native vegetated areas.

Engineered design- A design performed, and/or supervised, by a Washington State licensed professional engineer.

Forested Area – The area encompassed by the tree canopy and any native vegetation that occurs within the boundaries of the tree canopy.

Hazard Tree – Any tree that is susceptible to immediate fall due to its condition (damaged, diseased, or dead) or other factors, and which because of its location is at risk of damaging permanent physical improvements to property or causing personal injury.

Interflow- The portion of precipitation that infiltrates into the soil and moves laterally through the upper soil horizons until intercepted by a stream channel or until it returns to the surface, e.g., in a roadside ditch, a wetland, a spring, or a seep. Interflow is a function of the soil system depth, permeability, and water-holding capacity.

Land disturbing activity- Activity that results in a movement of earth or a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to clearing, grading, filling, and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land-disturbing activity.

May- Permissive action.

Native Vegetation – Vegetation comprised of plant species, other than noxious weeds, that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been
EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

expected to naturally occur on the site. Examples include trees such as Douglas Fir, Western Hemlock, Western Red Cedar, Alder, Big-leaf Maple, and Vine Maple; shrubs such as willow, elderberry, salmonberry and salal; and herbaceous plants such as sword fern, foam flower, and fire weed. (From Department of Ecology Stormwater Manual)

**Natural runoff**- Runoff that originates from native vegetated areas.

**Natural stormwater**- Stormwater that originates from native vegetated areas.

**Natural stormwater runoff**- Stormwater runoff that originates from native vegetated areas.

**Net land area disturbed**- The quantity of disturbed native vegetated land area minus the quantity of any non-native vegetated land area.

**Net new impervious surface area**- The quantity of new minus the quantity of any existing impervious surface area.

**Net new permeable pavement areas**- The quantity of new permeable pavement area minus the quantity of any existing permeable pavement area.

**Net replaced impervious surface area**- The quantity of replaced impervious surface area minus the quantity of any existing impervious surface area.

**Net replaced permeable pavement areas**- The quantity of replaced permeable pavement area minus the quantity of any existing permeable pavement area.

**Permeable pavement**- Pervious concrete, porous asphalt, permeable pavers, or other forms of pervious or porous paving material intended to allow passage of water through the pavement section. It often includes an aggregate base that provides structural support and acts as a stormwater reservoir.

**Phosphorus-mitigated**- Areas where the development stormwater runoff phosphorus loading profile does not exceed the corresponding natural stormwater runoff phosphorus loading profile.

**Phosphorus neutral**- Areas where the development stormwater runoff phosphorus loading profile does not exceed the natural stormwater runoff phosphorus loading profile from that area.
EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

**Phosphorus-unmitigated** - Areas where the development stormwater runoff phosphorus loading profile exceeds the corresponding natural stormwater runoff phosphorus loading profile.

**Presumptive BMPs** - Those BMPs that will require no additional development stormwater runoff flow control or treatment per current Stormwater Manual declaration once physically established in compliance with all current Stormwater Manual criteria.

**Replaced impervious surface** – For structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement. (From 2012 DOE Stormwater Manual)

**Replaced impervious surface area** - For structures, the removal and replacement of impervious surfaces down to the foundation. For other impervious surfaces, the removal down to bare soil or base course and replacement.

**Replaced permeable pavement area** - The removal and replacement of permeable pavement areas down to bare soil or base course and replacement.

**Runoff** - The portion of precipitation that does not evaporate or naturally percolate into the ground, but flows via one or more of the following means:
- surface or overland flow,
- interflow,
- shallow ground water,
  - into one or more of the following:
- stormwater drainage facilities,
- defined surface waterbodies (e.g., rivers, streams, creeks, sloughs, ponds, lakes),
- springs,
- seeps,
- wetlands

**Shall** - Mandatory action.

**Should** - Recommended action, but not mandatory or required.

**Stormwater** - The portion of precipitation that does not evaporate or naturally percolate into the ground, but flows via one or more of the following means:
EXHIBIT C- Planning Commission Recommended definitions for WCC 20.97

- surface or overland flow,
- interflow,
- pipes and other features of a stormwater drainage system,
  into one or more of the following:
- defined surface waterbodies (e.g., rivers, streams, creeks, sloughs, ponds, lakes),
- constructed infiltration facilities.

**Stormwater runoff.** The portion of precipitation that does not evaporate or naturally percolate into the ground, but flows via one or more of the following means:
- surface or overland flow,
- interflow,
- shallow ground water,
- pipes and other features of a stormwater drainage system,
  into one or more of the following:
- defined surface waterbodies (e.g., rivers, streams, creeks, sloughs, ponds, lakes),
- springs,
- seeps,
- wetlands.
Exhibit D

Whatcom County Comprehensive Plan, Chapter 2: Updates to reflect the addition of the Lake Whatcom Watershed Overlay District

Policy 2DD-2: Protect the character of the rural area through the County’s development regulations. In addition to the policies of this plan that provide measures governing rural development, the following County’s key development regulations are incorporated into this plan by reference to assure that the plan contains measures to protect rural character:

C. Measures to protect critical areas and surface and groundwater resources:


4. Protect surface and ground water resources through stormwater management standards established in the County’s Development Standards per WCC 20.80.630, WCC 20.51, and 12.08.035 and referenced in the following Zoning Code provisions, adopted herein by reference:
   a. 20.32.656 Drainage, Residential Rural District;
   b. 20.34.659 Drainage, Rural Residential-Island District;
   c. 20.36.656 Drainage, Rural District;
   d. 20.37.655 Drainage, Point Roberts Transitional District;
   e. 20.44.652 Drainage, Recreation and Open Space District;
   f. 20.59.704 Drainage, Rural General Commercial District;
   g. 20.60.655 Drainage, Neighborhood Commercial District;
   h. 20.61.704 Drainage, Small Town Commercial District;
   i. 20.63.654 Drainage, Tourist Commercial District;
   j. 20.64.655 Drainage, Resort Commercial District;
   k. 20.67.653 Drainage, General Manufacturing District;
   l. 20.69.655 Drainage, Rural Industrial and Manufacturing District.

8. Limit phosphorus entering Lake Whatcom through WCC 20.51 Lake Whatcom Watershed Overlay District and Lake Whatcom and Lake Samish due to the application of commercial fertilizers to residential lawns and public properties through WCC 16.32, adopted herein by reference.
TITLE OF DOCUMENT: Presentation by McBride and Associates regarding Legislative sessions

ATTACHMENTS

SEPA review required? ( ) Yes ( ) No
SEPA review completed? ( ) Yes ( ) No

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.)

Legislative session presentation by Tom McBride and Ben Bucholz of McBride Public Affairs, LLC.

COMMITTEE ACTION:

COUNCIL ACTION:

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.
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<th>CLEARANCES</th>
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<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>7/9/13</td>
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<td>Finance Committee; Council</td>
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**TITLE OF DOCUMENT:** 2013 Supplemental Budget Request #8

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

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<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
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<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</td>
<td>Requested Date:</td>
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**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.)

Supplemental #8 requests funding from the General Fund:

1. To appropriate $115,409 in Non-Departmental to fund Opportunity Council public service projects from CDBG grant proceeds.
2. To appropriate $15,000 in Parks & Recreation to fund Nesson Farm tractor and mowers purchase from donation proceeds.
3. To appropriate $1,000 in the Sheriff’s Office to fund first aid training equipment from donation proceeds.
4. To appropriate $6,720 in the Sheriff’s Office to fund reimbursable overtime at the Northwest Washington Fair Conservation Futures Fund;
5. To appropriate $40,000 in Non-Departmental to fund additional land surveying and closing costs for the Lake Whatcom Reconveyance.

In addition, Supplemental #8 requests to close 1 FTE Planner position in Planning and Development Services.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
7/09/2013: Introduced

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**
ORDINANCE NO.
AMENDMENT NO. 8 OF THE 2013 BUDGET

WHEREAS, the 2013-2014 budget was adopted November 20, 2012; and,
WHEREAS, changing circumstances require modifications to the approved 2013-2014 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2013-2014 Whatcom County Budget Ordinance #2012-048 is hereby amended by adding the following additional amounts to the 2013 budget included therein:

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<th>Expenditures</th>
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<td>General Fund</td>
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<tr>
<td>Non-Departmental</td>
<td>115,409</td>
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<tr>
<td>Parks &amp; Recreation</td>
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<td>Sheriff</td>
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<td>Total General Fund</td>
<td>138,129</td>
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<tr>
<td>Conservation Futures Fund</td>
<td>40,000</td>
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<td>40,000</td>
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<tr>
<td>Total Supplemental</td>
<td>178,129</td>
<td>(138,129)</td>
<td>40,000</td>
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</table>

In addition, Exhibit B to the 2013-2014 Budget Ordinance entitled “Authorized Positions” should be amended to provide for the following FTE change:

- Reduce 1 FTE Planner position in Planning & Development Services

ADOPTED this ___ day of __________________, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

( ) Approved       ( ) Denied

Jack Louws, County Executive
Date: __________________

I:\BUDGET\SUPPLS\2013_Suppl\Supplemental #8-2013.doc
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<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased Expenditure (Decrease)</th>
<th>(Increased) Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
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<td>General Fund</td>
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<tr>
<td>Non-Departmental</td>
<td>To fund Opportunity Council public service projects from CDBG grant proceeds.</td>
<td>115,409</td>
<td>(115,409)</td>
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<tr>
<td>Parks &amp; Recreation</td>
<td>To fund Nesset Farm tractor and mower purchase from donation proceeds.</td>
<td>15,000</td>
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<td>To fund first aid training equipment from donation proceeds.</td>
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<td>Sheriff</td>
<td>To fund Reimbursable overtime at the Northwest Washington Fair.</td>
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<td><strong>Total General Fund</strong></td>
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<td><strong>138,129</strong></td>
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<tr>
<td>Conservation Futures Fund</td>
<td>To fund additional land surveying and closing costs for the Lake Whatcom Reconveyance.</td>
<td>40,000</td>
<td>-</td>
<td>40,000</td>
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<tr>
<td><strong>Total Supplemental</strong></td>
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<td><strong>178,129</strong></td>
<td><strong>138,129</strong></td>
<td><strong>40,000</strong></td>
</tr>
</tbody>
</table>
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws
Subject: Budget Supplemental, Opportunity Council Grant
Date: June 24, 2013

The attached supplemental request for $115,409 is for the purposes of establishing budget authority in order to pass-through an available grant from the Washington State Department of Commerce to the Opportunity Council. This grant was applied for and authorized by the County Council in March, and has been granted for the delivery of direct services by the Opportunity Council as the local community action agency.

This grant is a HUD formula grant, issued annually, and passed through Dept. of Commerce for Community Development Block Grant Programs, for which Opportunity Council qualifies for this financial assistance. Whatcom County has been designated by the Dept. of Commerce as the grantee for the purpose of contracting with the Opportunity Council as a subrecipient for this grant award of $115,409.00.

This funding is intended to support new or increased levels of service to low- and moderate-income level homeowners and residents in Whatcom, Island and San Juan Counties for a one year period.

Whatcom County has executed a contract with the State Department of Commerce for this funding. Council’s authorization for this supplemental request will result in the execution of a Subrecipient Agreement with the Opportunity Council to implement the designated services noted herein.
1a. Description of request:
This request is for a Community Development Block Grant from the Washington State Department of Commerce, which grant will be passed through to the Opportunity Council as subrecipient. This grant is a Public Services Grant issued annually for delivery of direct services to low- and moderate-income residents in Whatcom, San Juan and Island Counties. The services provided include community outreach, resource referral, client housing education, energy conservation education and other housing services.

1b. Primary customers:
Low and moderate-income residents of Whatcom, Island and San Juan Counties

2. Problem to be solved:
In order for Opportunity Council to access this formula grant for public services dollars, they require the local jurisdiction to act on their behalf as grantee. This CDBG grant is intended to support new or increased levels of services for eligible clients. Following the Council’s approval of the application submission (in March, 2013), the grant contract has been awarded. Next, the County will enter into a subrecipient agreement with Opportunity Council, who will complete the project scope of work and adhere to the requirements of the grant contract.

3a. Options / Advantages:
None

3b. Cost savings:
N/A

4a. Outcomes:
Accomplish HUD’s objective of increasing the availability and accessibility of services to achieve the objective of creating suitable living environments. This is an annual formula grant, with a one year contract which expires on June 30, 2014.

4b. Measures:
Opportunity Council will be required to submit ongoing reports, both fiscal and narrative, regarding the services delivered to the 3-county area. The grant closeout and final report will occur only after evidence of all grant requirements having been met. A final public hearing will be conducted at grant closeout.

5a. Other Departments/Agencies:
Opportunity Council, and 3 community resource centers in San Juan County

5b. Name the person in charge of implementation and what they are responsible for:
Dave Finet is Director of Opportunity Council and is responsible for overseeing the services associated...
with this grant funding.

6. **Funding Source:**

   Federal grant from Housing and Urban Development (HUD) through the State Department of Commerce's CDBG Program.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Budget Supplemental #1557 Nesset Farm Tractor and Mower Purchase
DATE: June 21, 2013

- Background and Purpose
  This budget supplemental requests funding to purchase a replacement mower and tractor for the Nesset Farm. We are proposing to purchase a heavy duty 4WD lawn tractor and mower which is better suited for the site. A small trailer will also be purchased to help facilitate the maintenance of the property.

- Funding Amount and Source
  We are requesting $15,000 to purchase the tractor, mower and trailer. This purchase has been approved for reimbursement by the Nesset Foundation.

Please contact Michael McFarlane at extension 32072, if you have any questions.
Supplemental Budget Request

Parks & Recreation

<table>
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<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
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<tr>
<td>1557</td>
<td>1</td>
<td>6003 628</td>
<td>Michael McFarlane</td>
</tr>
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Expenditure Type: One-Time  Year: 2013  Add'l FTE:  Add'l Space: Priority: 1

Name of Request: Nessel Farm Tractor and Mower Purchase

Department/Head Signature (Required on Hard Copy Submission)

6-25-13

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<td>$0</td>
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1a. Description of request:
Purchase of a heavy duty tractor, mower and trailer to be used for general maintenance purposes at the Nessel Farm.

1b. Primary customers:
Park visitors.

2. Problem to be solved:
This request is to purchase a heavy duty tractor, mower and trailer for the Nessel Farm. This equipment is required to maintain the parks and for general maintenance purposes on site. The current lawn mower is nearing the end of its useful service and will be maintained as a backup for light duty work on the property.

3a. Options / Advantages:
Having our resident caretaker maintain the grounds is the most cost effective method to maintain the park area. This requires having the proper equipment as proposed.

3b. Cost savings:
This purchase is being funded by the Nessel Foundation

4a. Outcomes:
Purchase of the equipment.

4b. Measures:
N/A

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Nessel Foundation. Funds from the Foundation will be used to reimburse the general fund for the purchase.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: June 24, 2013
SUBJECT: Supplemental Budget ID #1553
First Aid Training Equipment - 2013

The attached Supplemental Budget requests budget authority to use donation from Bellingham Elks Lodge #194 for first aid training equipment.

Background and Purpose
The Bellingham Elks Lodge #194 donated $1,000 in June 2013 to supplement the Sheriff’s Office first aid training and supply needs. The Sheriff’s Office requests budget authority to use these funds to purchase equipment such as CPR mannequins and AED training machines to use for first aid training for Sheriff’s Office and Corrections deputies.

Funding Amount and Source
Donation of $1,000 from the Bellingham Elks Lodge #194.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

SHERIFF ADMINISTRATION

Fund 1
Cost Center 2940
Originator: Jeff Parks / Dawn Pierce

Expenditure Type: One-Time
Year 1 2013
Add'l FTE ☐
Add'l Space ☐
Priority 1

Name of Request: First Aid Training Equipment - 2013

X

Department Head Signature (Required on Hard Copy Submission)

6/24/13

Date

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<td>Tools &amp; Equip</td>
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1a. Description of request:
The Bellingham Elks Lodge #194 donated $1,000 in June 2013 to supplement the Sheriff's Office first aid training and supply needs. The Sheriff's Office will use these funds to purchase equipment such as CPR mannequins and AED training machines to use for first aid training.

1b. Primary customers:
Sheriff's Office patrol and corrections deputies.

2. Problem to be solved:
The Sheriff's Office needs budget authority to purchase additional first aid training equipment using $1,000 donation received from the Bellingham Elks.

3a. Options / Advantages:

3b. Cost savings:
Cost savings of $1,000.

4a. Outcomes:
Additional first aid training equipment will be purchased.

4b. Measures:

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
$1,000 donation from Bellingham Elks Lodge #194.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: June 24, 2013
SUBJECT: Supplemental Budget ID #1555
         Reimbursable OT – Northwest Washington Fair 2013

The attached Supplemental Budget requests budget authority (revenue and expenditure) to provide additional law enforcement services during the Northwest Washington Fair.

Background and Purpose
The Northwest Washington Fair has requested the Sheriff’s Office to provide 96 hours of additional law enforcement services at the 6-day fair event in 2013 to enhance visibility and security for the safety of fair attendees.

Funding Amount and Source
Funding will be provided by the NW WA Fair at the established overtime reimbursement rate of $70 per hour in accordance with the Whatcom County Unified Fee Schedule for an estimated total of $6,720.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Administration

SuppID # 1555

Fund 1 Cost Center 2965 Originator: Dawn Pierce

Expenditure Type: One-Time Year 1 2013 Add'l FTE Add'l Space Priority 1

Name of Request: Reimbursable OT - Northwest Washington Fair 2013

Department Head Signature (Required on Hard Copy Submission) Date 6/24/13

Costs:

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<tr>
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</table>

1a. Description of request:
The Northwest Washington Fair (NW WA Fair) has requested the Sheriff's Office to provide additional law enforcement at the 2013 fair event to enhance visibility and security for the safety of fair attendees.

1b. Primary customers:
NW Wa Fair attendees,

2. Problem to be solved:
Additional budget authority (revenue and expenditure) is needed to provide the requested 96 hours of law enforcement services at the 6-day event.

3a. Options / Advantages:

3b. Cost savings:
Overtime costs will be paid by the NW WA Fair.

4a. Outcomes:
Law enforcement services will be provided by Sheriff's Office deputies on off-duty overtime during the operational periods of the NW WA Fair for the safety of fair attendees.

4b. Measures:

5a. Other Departments/Agencies:
N/A

5b. Name the person in charge of implementation and what they are responsible for:
N/A

6. Funding Source:
Funding will be provided by the NW WA Fair at established overtime reimbursement rate of $70 per hour in accordance with the Whatcom County Unified Fee Schedule.

Thursday, June 20, 2013

Rpt: Rpt Suppl Regular
Supplemental Budget Request

Non-Departmental

Expenditure Type: One-Time  Year: 2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: Lake Whatcom Reconveyance - land surveying

Department Head Signature (Required on Hard Copy Submission)

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tr>
<td>Request Total</td>
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<td>$0</td>
</tr>
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</table>

1a. Description of request:
This budget supplemental is to allow for the increased cost for land surveying and closing expenses for the Lake Whatcom Reconveyance as described in the interagency agreement between Whatcom County and the Washington State Department of Natural Resources (Whatcom County Contract #200911007).

1b. Primary customers:
The area to be transferred to County ownership will be used by the public for recreation, habitat preservation and water quality. The land survey and monumentation will inform staff and easement users of property ownership.

2. Problem to be solved:
The Lake Whatcom Reconveyance is a Council initiative to provide additional protection to the Lake Whatcom Watershed and enhanced recreational opportunities to Whatcom residents by transferring approximately 8,800 acres of State trust lands to County ownership pursuant to RCW 7.22.300. The County entered into an agreement with the State of Washington Department of Natural Resources in late 2008. At that time the State estimated that transaction costs would not exceed $291,000. Since 2008 the configuration of trust lands to be transferred has been finalized. The State now estimates an additional $30,000. is required to complete a land survey and to monument all road crossings between state and county lands. An additional $10,000 for DNR staff to update and review title and prepare easement legal descriptions, deed and other closing preparations and documents is also being requested.

3a. Options / Advantages:
DNR prefers to use its own staff for surveying to maintain quality control and consistency with its lands management program. Local units of government are required to pay the costs of transferring trust lands per reconveyance.

3b. Cost savings:
N/A

4a. Outcomes:
Transfer by deed of approximately 8,800 acres of state trust lands to Whatcom County per the reconveyance proposal and completion of the land survey of the boundary between county and state lands to include marking of all road crossings.

4b. Measures:

5a. Other Departments/Agencies:
This land transfer is being facilitated by the State of Washington Department of Natural Resources.

5b. Name the person in charge of implementation and what they are responsible for:

Tuesday, June 18, 2013
6. Funding Source:

Conservation Futures Fund
 Memorandum

TO: Jack Louws, County Executive
FROM: J.E. "Sam" Ryan, PDS Director
DATE: February 22, 2013
SUBJECT: PDS Expenditure Plan to Reduce County Funding

In your memo dated February 4, 2013, the savings target set for PDS is:
- $80,989 for 2013, and
- $89,073 for 2014.

To help meet these targets, we will eliminate a 1 FTE position (#1150) after June 30, 2013; her last day with the county. This position has a total budget of:
- $88,080 in 2013, and
- $91,711 in 2014.

So for 2014, the elimination of this position covers the $89,073 savings target.

Since she is here for half of 2013, we have combined the elimination of this position with other 2013 personnel cost savings to meet the $80,989 savings target for 2014. See the breakdown below:

- Position #1150 Cost Summary (1 FTE) from 2013 Budget
  - Wage 64,040
  - SS 4,899
  - Workers Comp 728
  - Retirement 5,251
  - Med/Dent/Vis/Life 13,131
  - EAP 31
  - TOTAL 88,080

- We will save the following because she will be leaving the county after 6 months
  - Wage 32,020
  - SS 2,449.50
  - Workers Comp 364
  - Retirement 2,625.50
  - Med/Dent/Vis/Life 6,565.50
  - EAP 15.50
  - TOTAL SAVINGS 44,040
• Of the $32,020 wages she will be here for, she only works a .8 FTE schedule, so additional savings:
  o .2 of Wages 6,404
  o Benefits related to .2 1,088
  o TOTAL SAVINGS 7,492

• TOTAL amount that we will not spend out of the $88,080 2013 budget for Position #1150:
  o 44,040 (from only working 6 months)
  o 7,492 (from only working .2)
  o <5.139> (less estimated cash-out)
  o $46,393 TOTAL SAVINGS in 2013 from eliminating position #1150

Other savings to go towards the 2013 savings target:
• Position #1050 has been open January, February, and we plan on re-hiring in March
  o $87,798/year – 2 month’s savings = $14,633
• Position #1060 has been open since mid-October 2012. It was re-hired in February
  o $91,111/year – 1 month’s savings = $7,593
• Position #1240 will remain unfilled in February
  o $72,167/year – 1 month’s savings = $6,014
• Position #1020 is budgeted at 1 FTE, but only works .8 FTE, as agreed upon at the close of each year 2010, 2011, & 2012.
  o $108,007/year -.2 savings = $21,601

*All figures above are total personnel costs (with benefits included)

TOTAL SAVINGS IN 2013 OUTLINED ABOVE:

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<td>Position #1150</td>
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<td>$96,234</td>
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As you see, these savings of $96,234 are more than $15,000 beyond the savings target requested for 2013. I wanted to point out that we recently filled the Planner 1 position at the front counter with an internal applicant from a different union. We hired him at a rate one step above what was budgeted. This equals a dollar amount of $1 more per hour, so about $2400 more a year. This extra $15,000 in savings more than covers this new hire.

Please let me know if you have any questions.

Thank you.
### WHATCOM COUNTY COUNCIL AGENDA BILL

**CLEARANCES**

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<th>Initial</th>
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**TITLE OF DOCUMENT:**

AMENDMENT No. 1 TO ORDINANCE No. 2013-003 ESTABLISHING A PROJECT FUND FOR THE NEW JAIL PROJECT 2013-2014

**ATTACHMENTS:**

1. Memo to County Executive and County Council
2. Ordinance Amendment
3. Exhibit “A” Jail Planning Supplemental Services Supplemental Budget Request

**SEPA review required?**

- [ ] Yes
- [x] No

**SEPA review completed?**

- [ ] Yes
- [x] No

**Should Clerk schedule a hearing?**

- [ ] Yes
- [x] 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.)

Amendment No. 1 to the New Jail Project 2013-2014 budget requests additional planning phase budget authority of $100,000 for a new total Project Based Budget amount of $544,902.

**COMMITTEE ACTION:**

7/09/2013: Introduced

**COUNCIL ACTION:**

7/1/2013: Introduced

**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](http://www.co.whatcom.wa.us/council).
MEMORANDUM:

To: Whatcom County Council Members

From: Tawni Helms, Administrative Services Coordinator

RE: New Jail Project Budget Amendment #1

Date: June 28, 2013

Background and Purpose:

Other expenses connected with necessary analysis of the preferred jail property site have arisen and there is adequate funding or these expenses in the New Jail Project 2013-2014 Fund. Additional analysis of the preferred site requires supplemental services not included in the original scope of work. Further assessment of the site includes a Geotech study and Environmental Site Assessment (ESA) Phase II at a cost that exceeds the contract's 10% contingency.

It is critical the County proceeds expeditiously with this work, as outlined in Attachment A in order to complete the Supplemental Environmental Impact Statement. If problems are identified with the site as a result of these studies the County will have the option to assess the viability of the preferred site before expending additional resources. Therefore, the Administration recommends approval of this budget supplemental to allow for adequate budget authority to complete the necessary analysis on this time sensitive project.

Administration is requesting additional budget authority in the amount of $100,000 to increase the original project budget amount from $444,902. to $544,902.

Funding Amount and Source:

Funding source for supplemental services related to the Jail Planner work is the Jail Project 2013-2014 Fund. Cost Center 345100.
ORDINANCE NO.
AMENDMENT No. 1 TO ORDINANCE No. 2013-003 ESTABLISHING A PROJECT
FUND FOR THE NEW JAIL PROJECT 2013-2014

WHEREAS, the planning phase of the New Jail Project 2013-2014 budget was initially
adopted on January 29, 2013 with an expenditure amount of $444,902 and a revenue amount
of $1,000,000 from a General Fund transfer, and

WHEREAS, the $444,902 was the amount budgeted to cover the DLR planning
contract, and

WHEREAS, other expenses connected with necessary analysis of the preferred jail
property site have arisen as described in Exhibit A, and

WHEREAS, there is adequate funding for these expenses in the New Jail Project 2013-
2014 Fund,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council, that
Ordinance No. 2013-003, associated with the project based budget of the New Jail Project
2013-2014 is hereby amended by adding an additional amount of $100,000 of expenditure
authority to the original project budget amount of $444,902 for a total project budget
expenditure amount of $544,902.

ADOPTED this _____ day of _____, 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

( ) Approved ( ) Denied

Chief Civil Deputy Prosecutor

Date: ____________________________

Jack Louws, Executive
Supplemental Budget Request

Non-Departmental

Status: Pending

Supp' ID # 1559  Fund 345  Cost Center 345100  Originator: Jack Louws

Expenditure Type: One-Time  Year 1 2013  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Jail Planning Supplemental Services

X

Department Head Signature (Required on Hard Copy Submission)  Date

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</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
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1a. Description of request:
Supplemental Services not included in the Jail Planner contract with DLR Group are required to complete the necessary analysis on the preferred jail property site. Supplemental services include:

1. Traffic Study
2. Geotechnical Engineering Study
3. Phase II Environmental Site Assessment
4. Fiscal Analysis as requested by the City of Ferndale

1b. Primary customers:
Citizens of Whatcom County.

2. Problem to be solved:
Supplemental services not included in the original scope of work are necessary for a full and complete analysis of the preferred site. The supplemental services include a Traffic Study, Geotechnical study, Phase II Environmental Site Assessment and a Fiscal Impact Analysis as requested by the City of Ferndale. The City of Ferndale seeks to establish the probable fiscal impact that the construction and subsequent operations of a proposed Whatcom County Jail and Sheriff Offices (the facility) would have on the City of Ferndale and nearby private properties.

3a. Options / Advantages:
Jail Planner, DLR Group requested multiple quotes for pricing to complete Geo Tech and ESA studies. The best and most affordable agency was selected.

3b. Cost savings:
N/A

4a. Outcomes:
Final Traffic Study
Final Geo Tech Study Report
Phase II Environmental Site Assessment (ESA) Report
Fiscal Analysis Report

4b. Measures:
Receipt of final report on time for each of the supplemental services.

5a. Other Departments/Agencies:
Planning and Development Services and Facilities staff may need to interact with the subcontractor.

Monday, July 01, 2013
Supplemental Budget Request

Non-Departmental

<table>
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<tr>
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<td>345100</td>
<td>Jack Louws</td>
</tr>
</tbody>
</table>

5b. Name the person in charge of implementation and what they are responsible for:

- Planning and Development Services - Tyler Schroeder
- Facilities - Mike Russell

6. Funding Source:

New Jail Fund 2013 - 2014 (Cost Center - 345100)
TITeL OF DOCUMENT: An Ordinance Establishing the Nessel Farm Restoration Project Fund and Establishing a Project Based Budget for the Nessel House Restoration Project.

ATTACHMENTS: Ordinance & Budget Modification Requests

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

To establish the Nessel Farm Restoration Project Fund and to appropriate $250,000 to fund the Nessel House Restoration Project.

COMMITTEE ACTION:

COUNCIL ACTION:
7/09/2013: Introduced

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
ORDINANCE NO. ________

ESTABLISHING THE NESSET FARM RESTORATION PROJECT FUND AND
ESTABLISHING A PROJECT BASED BUDGET FOR THE NESSET HOUSE RESTORATION
PROJECT

WHEREAS, Whatcom County has acquired the Nessel Farm as a county park, and

WHEREAS, it is anticipated that the Nessel Farm will have various restoration projects that will span several years, and

WHEREAS, the first project will be the Nessel House Restoration, and

WHEREAS, funding is available by donations from the Nessel Foundation;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a new fund is hereby established titled "Nessel Farm Restoration". This fund shall be used to account for the expenditures and revenues of the restoration projects, and,

BE IT FURTHER ORDAINED by the Whatcom County Council that the Nessel House Restoration project is approved with an initial project budget of $250,000 as described in Exhibit A.

ADOPTED this ___ day of _________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

( ) Approved ( ) Denied

Jack Louws, County Executive

Date: ____________________
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Budget Supplemental #1556 Nesset House Restoration
DATE: June 21, 2013

- Background and Purpose
This budget supplemental requests funding to restore the historic Nesset House and several small out buildings located at the Nesset Farm. This house was constructed in 1868 and requires extensive restoration. When completed, the house and farm will be available to the public for educational tours and activities.

- Funding Amount and Source
Funding for this project has been approved and will be provided through the Nesset Foundation. The estimated cost for this phase of the restoration is $250,000.

Please contact Michael McFarlane at extension 32072, if you have any questions or concerns regarding the terms of this agreement.
# Supplemental Budget Request

**Parks & Recreation**

**Supp# ID #** 1556  
**Fund**  
**Cost Center**  
**Originator:** Michael McFarlane  
**Expenditure Type:** One-Time  
**Year 1 2013**  
**Add'l FTE** □  
**Add'l Space** □  
**Priority** 1  

**Name of Request:** Nesset House Restoration  
**Department Head Signature (Required on Hard Copy Submission):**  
**Date:** 6.25.13

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<td>7060</td>
<td>Repairs &amp; Maintenance</td>
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**Request Total** $0

### 1a. Description of request:

The Nesset Foundation has provided funding for restoration of the Nesset House and several smaller outbuildings at South Fork Park. This historic house is in need of major restoration and will be open for public viewing when completed. Constructed in 1888, this project includes structural repairs, siding and roofing for the main house and several smaller outbuildings.

### 1b. Primary customers:

Park visitors will be able to tour the entire homestead when completed.

### 2. Problem to be solved:

Whatcom County acquired the Nesset Farm in 1998 with the intent of restoring the property for public use as an educational and museum facility. The Nessa Foundation was formed to fund improvements to the property and structures. Other structures such as the barn have already been restored. The Nesset house was constructed in 1888 and requires extensive renovation due to age and condition. This project will restore the house to its original condition and allow for its intended public use. Concurrently, the Parks & Recreation Department is in the early stages of developing public access to the park. Restoration efforts should be completed by the time the park is ready for public use.

### 3a. Options / Advantages:

N/A

### 3b. Cost savings:

N/A

### 4a. Outcomes:

Restoration should be completed in 2015.

### 4b. Measures:

The house and outbuildings will be restored and in good condition.

### 5a. Other Departments/Agencies:

Permits will be required from WC Planning and Development Services for restoration. Department of Archeology and Historic Preservation guidelines will be incorporated into the restoration specifications.

### 5b. Name the person in charge of implementation and what they are responsible for:

N/A

### 6. Funding Source:

Nesset Foundation
An Ordinance Authorizing an Interfund Loan to Finance Cash Flow for the Nesset Farm Restoration Project Fund.

The attached ordinance authorizes the Whatcom County Treasurer for make interfund loans for cash-flow purposes from Real Estate Excise Tax Fund II to the Nesset Farm Restoration Project Fund for up to three years and $100,000.

COUNCIL ACTION:
7/09/2013: Introduced
ORDINANCE NO. _________

AN ORDINANCE AUTHORIZING AN INTERFUND LOAN TO FINANCE CASH FLOW FOR THE NESSET FARM RESTORATION PROJECT FUND

WHEREAS, Whatcom County Parks and Recreation will be overseeing various multi-year restoration projects connected with the Nesset Farm, and

WHEREAS, these projects will be accounted for in a separate capital project fund, and

WHEREAS, funding for these projects will be on a cost reimbursement basis from the Nesset Foundation, and

WHEREAS, from time to time, due to the processing time required to receive the reimbursements, the Nesset Farm Restoration Project Fund will need a temporary loan for cash-flow purposes, and

WHEREAS, the Real Estate Excise Tax Fund II (REET II) is an appropriate source to provide cash-flow loans for park-related projects,

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council: The Whatcom County Treasurer is hereby authorized to make inter-fund loans from the REET II Fund to the Nesset Farm Restoration Project Fund for cash-flow purposes. The loans shall not exceed $100,000 and shall not be for a term exceeding three years. No interest shall be charged on the loans.

BE IT FURTHER ORDAINED, a report of all new inter-fund loans from the REET II Fund will be provided to the County Council annually.

ADOPTED this ____ day of ____________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

( ) Approved  ( ) Denied

Jack Louws, County Executive
Date: ____________________________
Design Assistance for Stormwater Projects in the Birch Bay Watershed

ATTACHMENTS:
1. Contract Information Sheet
2. Memo
3. Contract and Related Exhibits

SEPA review required? ( ) Yes ( x ) NO
SEPA review completed? ( ) Yes ( ) NO

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.)

The Birch Bay Comprehensive Plan and the Central North Subwatershed Master Plan have identified high priority capital improvement projects. Whatcom County Public Works Stormwater Division, in collaboration with the Birch Bay Watershed Aquatic and Resources Management District has reviewed and ranked the identified capital improvement projects and is ready to proceed with design and construction of the projects.

The County seeks assistance from Tetra Tech, Inc, to provide design assistance for the following items in the BBWARM District:
- Priority stormwater retrofit Pre-Design Project for four individual projects including:
  o Compiling existing information
  o Produce survey and base map
  o Identify preliminary solutions
  o Developing pre-design reports (36% design)
- Design of Beachway Drive and Fern/Park Stormwater Improvements
  o Develop plans, specifications, and engineer’s estimates (PS&E) for stormwater system retrofit project (Beachway-Fern/Park)
  o Provide assistance during bidding

COMMITTEE ACTION: 

COUNCIL ACTION:

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

TO: The Honorable Jack Louws, County Executive, and Honorable Board of Supervisors of the Flood Control Zone District

THROUGH: Frank M. Abart, Public Works Director

FROM: Chris Brueske, P.E., Assistant Director
       Kink Christensen, P.E., Stormwater Manager

RE: Contract with Tetra Tech for Design Assistance of Stormwater Projects in the Birch Bay Watershed

DATE: July 3, 2013

Please find attached for your review and signature two (2) originals of a contract for design assistance of stormwater projects in the Birch Bay Watershed between Tetra Tech, Inc., and Whatcom County.

- **Background and Purpose**
  Capital improvement projects (CIP) are a major component of Birch Bay Watershed and Aquatic Resources Management (BBWARM) District’s programs. Tetra Tech was chosen through a competitive selection process to provide engineering design assistance on the following projects.

- **Four Stormwater Retrofit Pre-Design Projects**
  BBWARM applied for and received a grant from State of Washington Department of Ecology (DOE) to assist with development of four pre-design capital construction retrofit projects. These projects were identified in the original Birch Bay Watershed Comprehensive Stormwater Plan and/or in the Draft Central North Subwatershed Master Plan. All four projects are included in the 6-year CIP.

  Each project will receive 30% design and will include evaluation of two options, development of a preferred design, cost estimate, and individual design report. The reports will assist the Advisory Committee and staff by providing more defined budget numbers and will reduce project development timelines by establishing a clear design scope and project complexity. The design reports will also be useful in future capital project grant applications.

- **Beachway-Fern CIP**
  The Beachway and Birch Bay Drive Storm Drainage Improvements (Beachway) project is included in the four pre-design projects noted above and is identified in the 6-year CIP for construction in the summer of 2014. This project includes undersized outfall replacement to the beach and improvements to adjacent neighborhood drainage to reduce flooding. Beachway upgrades provide the outlet for Fern neighborhood which has high water tables, flooding, and contributes to the near shore flooding in the Halverson Neighborhood. Fern Street Drainage Improvements provide water quality treatment as well as improved neighborhood drainage. The consultant will provide plans, specifications, and engineer’s estimate for this project.

- **Funding Amount and Source**
  The total contract amount is $230,947 of which $94,000 is funded by a forthcoming grant with DOE and with BBWARM providing $136,947.

Please contact Kraig Olason at extension 50782 if you have any questions regarding this agreement.

Encl.
## WHATCOM COUNTY CONTRACT INFORMATION SHEET

| Contract No. | 201307004 |

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works-Stormwater</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Kraig Olason, Senior Planner</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Tetra Tech, Inc.</td>
</tr>
</tbody>
</table>

**Is this a New Contract?**
- Yes (X) No ___

**Is this a grant agreement?**
- Yes (X) No ___

**Is this contract grant funded?**
- Yes (X) No ___

**Is this the result of a RFP or Bid process?**
- Yes (X) No ___

**Is this contract excluded from E-Verify?**
- Yes (X) No ___

**If no, include Attachment D Contractor Declaration Form**
- Contract less than $100,000.
- Professional services agreement for certified/licensed professional
- Work is for less than 120 days
- Interlocal Agreement (between Govt.)
- Contract for Commercial off the shelf items (COTS)
- Public Works Dept. - Local Agency/Federally Funded FHWA

**Contract Amount:** (sum of orig contract amt and any prior amendments)
- $230,947

**This Amendment Amount:**
- $

**Total Amended Amount:**
- $

**Scope of Services:**

This project will provide engineering pre-design analysis for four priority stormwater retrofit areas included in the Birch Bay Watershed and Aquatic Resources Management (BBWARM) District 6-year capital plan. Main tasks include compiling existing information, providing survey and base map, identify preliminary solutions, and developing pre-design reports (30% design) for each of the four projects. Full plan, specifications, and engineer’s estimate will also be completed for the Beachway/Fern drainage construction project.

**Term of Contract:**
- Expiration Date: 3-3-15

**Contract Routing Steps & Signoff:**

<table>
<thead>
<tr>
<th>Step</th>
<th>Signoff</th>
<th>Date</th>
<th>Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prepared by:</td>
<td>Remy McConnell</td>
<td>07/06/13</td>
<td>electronic</td>
</tr>
<tr>
<td>2. Attorney reviewed:</td>
<td>Daniel L. Gibson</td>
<td>07/05/13</td>
<td>electronic</td>
</tr>
<tr>
<td>3. AS Finance reviewed:</td>
<td>bbennett</td>
<td>07/09/13</td>
<td>electronic</td>
</tr>
<tr>
<td>4. IT reviewed if IT related</td>
<td></td>
<td></td>
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<tr>
<td>5. Corrections made:</td>
<td></td>
<td></td>
<td>hard copy printed</td>
</tr>
<tr>
<td>6. Attorney signoff:</td>
<td>Daniel L. Gibson</td>
<td>07/05/13</td>
<td></td>
</tr>
<tr>
<td>7. Contractor signed:</td>
<td></td>
<td></td>
<td>7-10-13</td>
</tr>
<tr>
<td>8. Submitted to Exec Office</td>
<td></td>
<td></td>
<td>7-11-13 [summary via electronic; hardcopies]</td>
</tr>
<tr>
<td>9. Reviewed by DCA</td>
<td></td>
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</tr>
<tr>
<td>10. Council approved (if necessary)</td>
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<tr>
<td>11. Executive signed</td>
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<tr>
<td>12. Contractor Original Returned to dept;</td>
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</tr>
<tr>
<td>13. County Original to Council</td>
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</tbody>
</table>
CONTRACT FOR SERVICES
DESIGN ASSISTANCE OF STORMWATER PROJECTS IN THE BIRCH BAY WATERSHED

TETRA TECH, INC., hereinafter called Contractor, and Whatcom County Flood Control Zone District, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 8,
Exhibit A (Scope of Work), pp. 9 to 18,
Exhibit B (Compensation), pp. 19 to 22,
Exhibit C (Certificate of Insurance).

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 24TH day of JULY, 2013, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31ST day of MARCH, 2015.

The general purpose or objective of this Agreement is to: provide preliminary designs on four projects in Birch Bay and to provide final design for the Beachway/Fern drainage improvement project, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed TWO HUNDRED THIRTY THOUSAND, NINE HUNDRED FORTY-SEVEN AND NO/100 (***$230,947***)). The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the Indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this day of , 20__.

CONTRACTOR:
TETRA TECH, INC.

Dave Servis, Vice President

STATE OF WASHINGTON)
COUNTY OF King ) ss.

On this 10 day of JULY, 2013, before me personally appeared DAVE SERVIS to me known to be the VICE PRESIDENT of TETRA TECH, INC., and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Erin Walton, Notary Public in and for the State of Washington, residing at Seattle, My commission expires 08-07-16.

Contract for Services
Design Assistance of Stormwater Projects in the Birch Bay Watershed
WHATCOM COUNTY:
Recommended for Approval:

[Signature]

Frank M. Abart
Public Works Director

Approved as to form:

[Signature] 07/11/13

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Approved:
Accepted for Whatcom County Flood Control Zone District:

By: __________________________
Jack Louws, Whatcom County Executive/Signatory for
Flood Control Zone District Board of Supervisors

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss

On this _____ day of _________, 20__, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

_______________________________________
NOTARY PUBLIC in and for the State of Washington, residing at
_________________________. My commission expires _____________________.

CONTRACTOR INFORMATION:

TETRA TECH, INC.
Dave Servis, Vice President

Address:
1420 Fifth Avenue, Suite 600
Seattle, WA 98101

Contact Name: Jerry Scheller
Contact Phone: 206.883.9414
Contact FAX: 206.883.9301
Contact Email: jerry.scheller@tetratech.com

Contract for Services
Design Assistance of Stormwater Projects in the Birch Bay Watershed
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension: Not Applicable

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.

Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses
incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County’s customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor’s performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor’s failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor’s gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County’s Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 independent Contractor:
The Contractor’s services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit “B” and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serve clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys’ fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

30.2 Assignment and Subcontracting:

Contract for Services
Design Assistance of Stormwater Projects in the Birch Bay Watershed

Page 4

78
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 **No Guarantee of Employment:**
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.1 **Ownership of Items Produced:**
All writings, programs, data, public records or other materials prepared by the Contractor and/or its consultants or subcontractors, in connection with performance of this Agreement, shall be the sole and absolute property of the County.

31.1 **Ownership of Items Produced:**
When the Contractor creates any copyrightable materials or invents any patentable property, the Contractor may copyright or patent the same, but the County retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover, or otherwise use the materials or property and to authorize other governments to use the same for state or local governmental purposes. Contractor further agrees to make research, notes, and other work products produced in the performance of this Agreement available to the County upon request.

31.2 **Patent/Copyright Infringement:**
Contractor will defend and indemnify the County from any claimed action, cause or demand brought against the County, to the extent such action is based on the claim that information supplied by the Contractor infringes any patent or copyright. The Contractor will pay those costs and damages attributable to any such claims that are finally awarded against the County in any action. Such defense and payments are conditioned upon the following:
A. The Contractor shall be notified promptly in writing by the County of any notice of such claim.
B. Contractor shall have the right, hereunder, at its option and expense, to obtain for the County the right to continue using the information, in the event such claim of infringement, is made, provided no reduction in performance or loss results to the County.

32.1 **Confidentiality:**
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 **Right to Review:**
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request. Contractor also agrees to notify the Administrative Officer in advance of any inspections, audits, or program review by any individual, agency, or governmental unit whose purpose is to review the services provided within the terms of this Agreement. If no advance notice is given to the Contractor, then the Contractor agrees to notify the Administrative Officer as soon as it is practical.

34.1 **Proof of Insurance:**
The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - $500,000.00 (this amount may vary with circumstances)
General Liability & Property Damage for bodily injury- $1,000,000.00 (this amount may vary with circumstances)

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

a. Professional Liability - $1,000,000 per occurrence

34.2 **Industrial Insurance Waiver:**
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 **Defense & Indemnity Agreement:**

The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officials, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or assigns, or its agents, servants, or employees, and the County, its appointed or elected officials, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 **Non-Discrimination in Employment:**

The County's policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed and treated during employment, without regard to their race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontractors for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 **Non-Discrimination in Client Services:**

The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 **Waiver of Noncompetition:**

Contractor irrevocably waives any existing rights which it may have, by contract or otherwise, to require another person or corporation to refrain from submitting a proposal to or performing work or providing supplies to the County, and contractor further promises that it will not in the future, directly or indirectly, induce or solicit any person or corporation to refrain from submitting a bid or proposal to or from performing work or providing supplies to the County.

36.2 **Conflict of Interest:**

If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.
37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County’s representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Frank M. Abart, Director, Whatcom County Public Works, 322 N. Commercial Street, Suite 210, Bellingham, WA 98225

37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor Information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.

38.1 Certification of Public Works Contractor’s Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions: Not Applicable

38.3 E-Verify: Not Applicable

Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations:
Any written commitment received from the Contractor concerning this Agreement shall be binding upon the Contractor, unless otherwise specifically provided herein with reference to this paragraph. Failure of the Contractor to fulfill such a commitment shall render the Contractor liable for damages to the County. A commitment includes, but is not limited to, any representation made prior to execution of this Agreement, whether or not incorporated elsewhere herein by reference, as to performance of services or equipment, prices or options for future acquisition to remain in effect for a fixed period, or warranties.

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, 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. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration:
Other than claims for injunctive relief brought by a party hereof (which may be brought either in court or pursuant to this arbitration provision), and consistent with the provisions hereinabove, any claim, dispute or controversy between the parties under, arising out of, or related to this Agreement or otherwise, including issues of specific performance, shall be determined by arbitration in Bellingham, Washington, under the applicable American Arbitration Association (AAA) rules in effect on the date hereof, as modified by this Agreement. There shall be one arbitrator selected by the parties within ten (10) days of the arbitration demand, or if not, by the AAA or any other group having similar credentials. Any issue about whether a claim is covered by this Agreement shall be determined by the arbitrator. The arbitrator shall apply substantive law and may award injunctive relief, equitable relief (including specific performance), or any other remedy available from a judge, including expenses, costs and attorney fees to the prevailing party and pre-award interest, but shall not have the power to award punitive damages. The decision of the arbitrator shall be final and binding and an order confirming the award or judgment upon the award may be entered in any court having jurisdiction. The parties agree that the decision of the arbitrator shall be the sole and exclusive remedy between them regarding any dispute presented or pled before the arbitrator. At the request of either party made not later than forty-five (45) days after the arbitration demand, the parties agree to submit the dispute to nonbinding mediation, which shall not delay the arbitration hearing date; provided, that either party may decline to mediate and proceed with arbitration.

Unless otherwise specified herein, this Agreement shall be governed by the laws of Whatcom County and the State of Washington.

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
EXHIBIT "A"
(SCOPE OF WORK)

TETRA TECH, INC.

BIRCH BAY PRIORITY STORMWATER RETROFIT PRE-DESIGN AND BEACHWAY DESIGN PROJECT

The Birch Bay Priority Stormwater Retrofit Pre-Design project will provide engineering pre-design analysis for four priority stormwater retrofit areas included in the Birch Bay Watershed and Aquatic Resources Management (BBWARM) District 6-year capital plan. The purpose of this pre-design analysis is to identify opportunities to address stormwater problems associated with hydrological and pollutant-loading impairments from existing and planned future development in the Birch Bay UGA and begin the design process for four stormwater retrofit projects that once built will result in improved water quality. The four areas selected for pre-design are located in the central-north portions of the Birch Bay watershed (see attached location map and aerial photos). Three of the project areas fall within a stormwater retrofit target watershed with a watershed integrity index of 5 and one falls within a watershed with an integrity index of 2 as identified by Ecology’s Stormwater Retrofit Target Watershed Maps. The four stormwater retrofit project locations are (see attached location map):

1. Beachway Dr.
2. North Bay Trailer Park
3. Cottonwood Dr.
4. Wooldridge Ave.

This scope of work describes the tasks and subtasks associated with the preparation of the Stormwater Retrofit Pre-design project. The following tasks include a description of the work involved and the associated deliverable(s) for that task.

TASK 1. COMPILE EXISTING DATA
Whatcom County, as part of the identification and selection process for the BBWARM capital improvement program, has conducted extensive field surveys, system inspection and evaluation, systematic water quality sampling program as well as hydrologic and hydraulic analysis to assist in assuring capital projects are selected and developed to best address the needs of the community.
Tetra Tech will compile information collected and included in the original Birch Bay Comprehensive Stormwater Plan as well as new information compiled in the draft Central North Subwatershed Master Plan and used for the development of pre-design reports for the priority stormwater retrofit project areas.
Tetra Tech will also conduct a one-day site visit with County staff to collect additional qualitative information for each project area.

Task 1 Deliverables:

1. Site visit.
2. Summary of collected data items.

TASK 2. IDENTIFY PRELIMINARY SOLUTIONS
Tetra Tech will evaluate design options for each of the four listed project areas. Special emphasis on incorporating water quality treatment in all options evaluated for failing storm water infrastructure and hydrologic impairments systems retrofits will be a requirement for any preliminary solutions. All preliminary solutions will evaluate at least two different options and consider both existing and planned development. The design options for each project area will focus on conveyance improvements that incorporate water quality treatment or low impact development features. The design options are expected to have only minor variations in alignment and configuration between options within a project area.

Hydrologic and hydraulic analysis will be performed to estimate the impacts of each treatment option. For Projects 1 –3, the performance of each option may be evaluated using the existing and future conditions analysis documented in
the draft *Central North Subwatershed Master Plan*. For Project 4, Wooldridge Avenue, new hydrologic and hydraulic models will be developed to estimate existing and future conditions. The baseline models will be modified to analyze the proposed project condition.

Tetra Tech will attend two public stakeholder meetings. The first meeting will be to provide the public with an overview of the project’s purpose and to initiate public participation. The second meeting will be to present the Preliminary Solutions Report. Public meetings will be organized and led by Whatcom County staff.

Tetra Tech will prepare a draft and final Preliminary Solutions Report documenting the options analysis for the four project areas. Technical review the draft report will be performed by Whatcom County staff. The report will include:

1. Brief one- or two-sentence description of the problem.
2. Design parameters.
3. One plan view graphic per option showing configuration of project elements.
4. Summary of the public involvement process.
5. Conclusion describing recommended option for pre-design.

**Task 2 Deliverables:**

- Draft and final Preliminary Solutions Report.
- Attendance by one Tetra Tech staff at two public meetings.

**TASK 3. DEVELOP PRE-DESIGN REPORTS**

Tetra Tech will produce a Pre-Design Report for each of the four project areas as described in the Watershed Protection and Restoration Grant Programs “Guidelines for Predesign Reports” including:

1. Executive Summary – a single page description of the project including a summary of the tasks completed to produce the preliminary design and cost estimate.
2. The designer, project team, and their qualifications including professional licenses, experience, and relationship with the grant recipient.
3. Description of the problem - the characteristics of the stormwater, including pollutant load (if the project is addressing pollutant reduction) and flow rates (if the project is addressing flows); the land use in the drainage area served by the project. Describe how the project was identified in a watershed-based assessment, and the degree to which the assessment was qualitative or quantitative.
4. Summary of the recommended project and how it will address the stormwater problem. For modifications of existing facilities, include a description of the existing facility.
5. Site assessment information that includes:
   a. A location map and a topographical map of the project area overlain with project elements.
   b. A comprehensive description of the various engineering/geotechnical investigations, and detailed site assessment data in an appendix. For projects proposing stormwater infiltration, a discussion of the site suitability for the project must include: soil suitability, infiltration field tests, and depth to ground water. If needed, include a plan for further investigation.
6. Preliminary project design (30%) with graphics (plan and elevation) and the design engineer’s professional stamp and signature.
7. Estimate of proposed project costs including land acquisition, additional site assessment, completing a 100% design, construction materials and labor.
8. Description of facility maintenance needs and responsibilities, as well as the estimated cost of preparing an operation and maintenance manual, if appropriate.
9. Design flows for the project with a description of the flow estimating methods used, and why the technique is appropriate. Design flow calculations will be provided in an appendix if appropriate.
10. Description of BMP treatment methods including size and configuration. Provide an estimate of the relative expected pollutant load reduction.
11. Environmental review elements, including identification of and progress toward obtaining required permits, SEPA or NEPA review, cultural and archaeological review, and any other required permits or reviews.

Tetra Tech will attend one public meeting presenting all pre-design reports. The public meeting will be organized and led by Whatcom County staff.

Pre-design reports will be prepared according to the following subtasks:

**Task 3.1 Prepare Pre-design Report for Beachway Drive and Fern/Park**
Tetra Tech will prepare a draft and final pre-design report for the Beachway Drive project area according to the outline shown above.

**Task 3.2 Prepare Pre-design Report for North Bay Trailer Park**
Tetra Tech will prepare a draft and final pre-design report for the North Bay Trailer Park project area according to the outline shown above.

**Task 3.3 Prepare Pre-design Report for Cottonwood Drive**
Tetra Tech will prepare a draft and final pre-design report for the Cottonwood Drive project area according to the outline shown above.

**Task 3.4 Prepare Pre-design Report for Wooldridge Avenue**
Tetra Tech will prepare a draft and final pre-design report for the Wooldridge Avenue project area according to the outline shown above.

**Task 3 Deliverables:**

- Four Pre-Design Reports
- Attendance by one Tetra Tech staff at one public meeting

**TASK 4. DESIGN OF BEACHWAY DRIVE AND FERN/PARK STORMWATER IMPROVEMENTS**
Tetra Tech will prepare intermediate and final contract documents to construct the Beachway Drive and Fern/Park stormwater improvements project using accepted engineering practices, and Whatcom County engineering guidance and standards. The preliminary drawing list is described in Table 1. Plan-set scales have been selected based on using full size drawings for construction. Tetra Tech will prepare the special provisions required for project construction identified in the design process. No traffic control plan will be prepared. No curb and gutter or driveway profiling will be prepared. Tetra Tech will prepare the bid package, including standard contract specifications and bid forms. Design submittals will be prepared using AutoCAD 2011. Project elements are shown in the attached preliminary layout map and are assumed to consist of the following components:

- New ditch and culvert system on Park Street,
- New ditch and culvert system on Fern Street,
- Park and Fern Street improvements will likely include water quality treatment or low-impact development facilities for handling stormwater,
- Replace existing storm drain on Beachway Drive between Fern Street and Maple Street,
- Replace ditch and pipe system on Beachway Drive between Maple Street and Birch Bay Drive,
- Construct new storm drain on Birch Bay Drive north of Beachway Drive, replace existing system on Birch Bay Drive south of Beachway Drive,
- New connection for private system at Halverson Lane,
- Replace outfall to Birch Bay.
**TABLE 1**
**DRAWING LIST**

<table>
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<th>Description</th>
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<tr>
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<td>Existing Conditions (Basemap) (1)</td>
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<td>Erosion and Sediment Control Plan (1&quot;=20’) (4)</td>
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<td>Stormwater Improvements Plan and Profile (1&quot;=20’) (6)</td>
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<td>Outfall Plan and Profile (1)</td>
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<td><strong>Total Number of Drawings = 16</strong></td>
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</table>

Subtasks include the following:

**Task 4.1 Sixty percent (60%) PS&E**
Tetra Tech will prepare the 60-percent PS&E for County review:

- Prepare 60% design plans representing the primary project components as determined in Task 3.
- Identify locations for five to ten utility locates (potholing) to be performed by Whatcom County crews.
- Prepare list of special provisions for items of work not covered by the Washington State Department of Transportation (WSDOT) Standard Specifications.
- Identify WSDOT standard details for inclusion in the contract documents.
- Prepare bid items, quantities, and construction cost estimate.
- Provide engineering support for permit submittal.
- Submit 60% PS&E to Whatcom County for comment.

**Task 4.2 Design Report**
Tetra Tech will prepare a Stormwater Design Report containing the information listed in the Department of Ecology (Ecology) 2005 *Stormwater Management Manual for Western Washington* and *Whatcom County Development Standards, Chapter 2 Stormwater Management, Section 215.D*. Hydrologic and hydraulic analysis for design is included in this task.  

**Task 4.3 Ninety percent (90%) PS&E**
Through the following subtasks, Whatcom County comments will be incorporated from the previous task and 60-percent PS&E will be prepared for County review. Tasks will include the following:

- Participate in a telephone conference meeting with Whatcom County staff for a design coordination review of comments of the 60% submittal.
- Prepare draft special provisions for items of work not covered by the WSDOT Standard Specifications.
- Prepare draft bid item description.
- Prepare 90% design plans incorporating review comments received from Whatcom County.
- Prepare bid items, quantities and a construction cost estimate.
- Submit 90% PS&E to Whatcom County for comment.

**Task 4.4 Final Contract Documents:**
Through the following subtasks, using the 90-percent PS&E, County comments, and associated materials from the previous tasks, the final bid documents will be prepared:

- Participate in a telephone conference meeting with Whatcom County staff for design coordination review of comments on the 90% submittal.
- Prepare draft contract documents (includes final special provision specifications) and submit check copy to Whatcom County.
- Prepare final plans which include horizontal and vertical layout information sufficient for field staking from the plans and submit a check copy for Whatcom County staff final approval.
- Submit final bid items, quantities and a construction cost estimate.
- Incorporate final County comments and submit final stamped and signed bid documents and plan originals for copying by the County.
- Prepare electronic submittal containing copies of documents, drawings, spreadsheets and hydrologic & hydraulic models developed in association with this project.

**Task 4 Items Furnished by Whatcom County**

Whatcom County will furnish Tetra Tech copies of documents available to Whatcom County that will facilitate the preparation of the plans, specifications, estimates and reports. These include the following:

- Example plans and specifications.
- Bid tabulations of previous projects as available.
- Field surveys as available.
- Whatcom County standard contract documents (contract, bid bond format, performance bond, etc.) for the bid documents as required.
- Whatcom County AutoCAD title and border drawings (including title sheet, plan sheet, and plan/profile sheet).
- Utility locate (potholing) at five to ten locations. Whatcom County will provide measure down information to top and bottom of utility, material type and size.
- All other necessary right-of-way acquisition efforts including additional title reports, appraisals, right of entry for fieldwork, negotiations, right-of-way cost estimates, deed preparation.
- Printing and distribution of plans and specifications for bidding.
- GIS data for the project vicinity including parcel boundaries in the vicinity in AutoCAD format.

**Task 4 Assumptions:**

- Project configuration includes installation of new storm system on Park and Fern Street, replacement of existing system under Beachway Drive from Fern Street to Birch Bay including new outfall, new and replacement storm drain system along Birch Bay Drive near Beachway Drive, and provision for private system connection at Halverson Lane.
- Construction specifications according to WSDOT *Standard Specifications for Road, Bridge, and Municipal Construction, 2012 Edition*
- Standard drainage details according to WSDOT *Standard Plans, 2012*
- Stormwater infrastructure designed according to the Washington State Department of Ecology 2005 *Stormwater Management Manual for Western Washington and Whatcom County Development Standards, Chapter 2, Stormwater Management*
- No traffic control plan will be prepared. No curb and gutter or driveway profiling will be prepared.
- Tetra Tech will prepare the bid package, including standard contract specifications and bid forms.
- Whatcom County will prepare and submit environmental and construction permits
- Design submittals will be prepared using AutoCAD 2011.
Task 4 Deliverables:

- 60% Engineering Plans Specifications and Estimate
- 90% Engineering Plans Specifications and Estimate
- Final Engineering Plans Specifications and Estimate
- Bid package

TASK 5. SURVEY AND BASE MAP
Detailed boundary and topographic surveying to support engineering design-level base mapping will be provided for four project areas described in Task 3.

Task 5.1 Beachway Drive Basemap
Survey will be provided for the development of a basemap for the Beachway Drive project area as described below:

- Recover or set survey control tied to the current Whatcom county Birch Bay NAD83/NAVD88 survey network, including, but not limited to one horizontal/vertical reference point for every 1000 linear feet of roadway topography.
- Recover sufficient plat-based road centerline monuments and surface-visible property corners, from which to calculate public right-of-way alignment and margins.
- Perform right-of-way to right-of-way topographic survey of the platted road within the project limits with cross-sections on a nominal fifty foot on-center station in and at significant angle points and grade breaks, and including all structures and surface-visible utility evidence, including underground locate marks by others.
- Tie a widely representative sampling of hard targets shown on the aerial mapping to determine a good site-specific conversion to the current data.
- Incorporate the 2001 photo data and 2013 LiDAR data into the current project, after conversion to NAD83/NAVD88 datums.
- Prior to commencing survey, the public no-cost utility locating system will be contacted to procure underground utility locations.

Task 5.2 North Bay Trailer Park Basemap
Survey will be provided for the development of a basemap for the Beachway Drive project area as described in Task 5.1...

Task 5.3 Cottonwood Drive Basemap
Survey will be provided for the development of a basemap for the Cottonwood Drive project area as described in Task 5.1.

Task 5.4 Wooldridge Avenue Basemap
Survey will be provided for the development of a basemap for the Wooldridge Avenue project area as described in Task 5.1.

Task 5.5 Pothole Survey
Durable reference marks locating potholes will be surveyed at up to ten locations and the potholed objects location and elevation will be incorporated into the basemap.

Task 5.6 Data Integration and Drafting Services
Basemapping will be provided in electronic files compatible with AutoCAD 2009, including surface data, survey point in ASCII format and two-photo-reproducible paper copies, signed by a Land Surveyor licensed in the State of Washington.
Task 5 Assumptions:

- Full access to the project area will be provided on regular business days.
- Data will be expressed relative to the Washington State Plane (North Zone) NAD83 horizontal coordinate system and the NAVD88 vertical datum, as monumented by Whatcom county during its recent control network along Birch Bay Drive.
- Platted/dedicated right-of-way within the four project areas will be included in the base mapping the approximate location of private parcel boundaries adjacent to the public rights-of-way will be represented.
- Plat control monuments will be recovered as is practicable but specific property line boundaries will not be resolved beyond the representation of their record position relative to their respective plat’s geometry.
- No examination of title rights acquired through unwritten title actions will be performed. Title reports if required for the survey will be provided by Whatcom County prior to commencement of survey activity.
- Private underground utility locate service are not required.
- “Existing Conditions” mapping will conform to the 2011 Board of Registration ruling concerning “existing conditions” maps.

Task 5 Deliverables:

- Existing conditions basemap for Beachway Drive area
- Existing condition basemap for North Bay Trailer Park area
- Existing conditions basemap for Cottonwood Drive area
- Existing conditions basemap for Wooldridge Avenue area
- Survey of pothole locations

TASK 6. GEOTECHNICAL EVALUATION
An allowance of $10,000 is included in the budget for geotechnical services. The allowance assumes two borings and a brief summary report by a licensed geotechnical engineer.

TASK 7. ASSISTANCE DURING BIDDING
Tetra Tech will provide engineering assistance during bidding and services during construction. Construction staking is described in the survey scope attachment.

- Respond to contractor questions during bidding process. Budget assumes twenty hours allocated to response.
- In-person attendance at a pre-bid contractor meeting at the project site.

Task 7 Deliverables:

- Respond to contractors question during bidding process.
- Attendance by one Tetra Tech staff at a construction kick-off meeting.

TASK 8. PROJECT MANAGEMENT
The focus of this task is to maintain effective communication with the County’s Project Manager and County staff, manage the project budget, and coordinate the timing of all tasks within the project to ensure completion within the project schedule.

- Prepare project plan defining staff responsibilities and schedules. Conduct a project start-up meeting involving key team members at Tetra Tech offices.
- Ongoing project management and coordination with the project team. Management functions including coordinating labor, meeting key scheduling milestones, and maintaining budget occurs within this task.
- Meetings between Tetra Tech and the County. Two meetings are budgeted involving two Tetra Tech employees for six hours each plus one hour of clerical support, per meeting.

Contract for Services
Design Assistance of Stormwater Projects in the Birch Bay Watershed

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• Preparation of monthly progress reports which include a summary table comparing amount expended and remaining budget.
• Prepare Quality Assurance Project Plan waiver form.
• Prepare Quality Assurance Project Plan (optional task only if authorized by Whatcom County).
• Quality assurance review conducted by a senior Tetra Tech engineer not associated with this project to review the technical content of the product.

Task 8 Deliverables:

• Quality Assurance Project Plan (QAPP) Waiver Form or Quality Assurance Project Plan (if authorized)
• Monthly invoices and progress reports
Project area 1: Beachway Drive and Fern/Park
Project area 2: North Bay Trailer Park
Project area 3: Cottonwood and Morgan Drives
Project area 4: Wooldridge Avenue

Birch Bay Stormwater Priority Retrofit Pre-Design Project
Project Location Map
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<th>Project Phases / Tasks</th>
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<td>2. Solution Options Report</td>
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<td>4.6 Draft Preliminary Solutions Report</td>
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<td>4.6.2 Select Preliminary Design</td>
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<td>4.8.2 Prepare Preliminary Report</td>
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<td>4.7.7 Final Draft Report</td>
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<td>5.0 Pre-Design Reports</td>
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<td>5.2.4 Preliminary Report for Beachway Dr</td>
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<td>5.2.4.1 Review &amp; Incorporate County Comments</td>
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<td>6.0 Pre-Design Report for North Bay Trail Park</td>
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<th>Task Pricing Totals</th>
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Birch Bay Stormwater Retrofit

Price Proposal
Revised: June 24, 2013

Contract Type: T&M

Total Labor Hrs: 1,463

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<td>5.1 Youth Day Trailer Park Basemap</td>
<td>5.2 Cemexwood Drive Basemap</td>
<td>5.4 Woodbridge Basemap</td>
<td>5.5 Beachway Engineering Support (postholing)</td>
<td>5.6 Data integration and Drafting</td>
<td>6.5.1 Geotechnical Engineering Support</td>
<td>7. Assistance During Bidding</td>
<td>7.1 Bid assistance</td>
<td>7.2 Attend pre-bid meeting</td>
<td>8.1 Prepare Project Plan &amp; HAP</td>
<td>8.2 Project Management &amp; Coordination</td>
<td>8.3 Invoices</td>
<td>8.4 Status Reports</td>
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Tetra Tech - Confidential and Proprietary
Page 21
Printed 9/24/2013
EXHIBIT B2
SUMMARY OF HOURLY RATES FOR TETRA TECH STAFF BY CLASSIFICATION TITLE

The range of hourly billing rates by classification title are provided in the table below.

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<td>Senior Engineer</td>
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<tr>
<td>Senior Scientist</td>
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<td>Project Engineer Engineer</td>
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<td>CAD Technician</td>
<td>$79 - $120</td>
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<td>Editor</td>
<td>$64 - $120</td>
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<td>Project Assistant</td>
<td>$60 - $105</td>
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EXHIBIT "C"

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Aon Risk Insurance Services West, Inc.
Los Angeles CA office
707 Wilshire Boulevard
Suite 2000
Los Angeles CA 90017-0460 USA

INSURED
Tetra Tech, Inc.
1420 5th Avenue, Suite 550
Seattle WA 98101 USA

CONTACT NAME: 
PHONE (INC. EXT.): (866) 283-7122 
FAX (INC. EXT.): 800-363-0105
E-MAIL ADDRESS:
INSURER(S) AFFORDING COVERAGE
NAC #

INZI RE A: National Union Fire Ins Co of Pittsburgh 19445
INSURER C:
INSURER D:
INSURER E:
INSURER F:

COVERAGES
CERTIFICATE NUMBER: 570050708753
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

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<th>TYPE OF INSURANCE</th>
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<th>POLICY NUMBER</th>
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AUTOMOBILE LIABILITY

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<td>CLAIMS-MADE</td>
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WORKERS COMPENSATION AND EMPLOYERS LIABILITY

| ANY PROPRIETOR / PARTNER / EXECUTIVE / OFFICER/AMATE EMBL EED | MANDATORY 3 RM | Y/N | N/A |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: Project Start Date: 07/24/2013, Tetra Tech Project Birch Bay Priority Stormwater Retrofit Pre-Design and Beachway Design Project, Whatcom County Public Works Department Stormwater is included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. Should General Liability, Automobile Liability and Workers’ Compensation policies be cancelled before the expiration date thereof, the policy provisions will govern how notice of cancellation may be delivered to certificate holders in accordance with the policy provisions. Stop Gap coverage for the following states: OH, NO, WA, WY.

CERTIFICATE HOLDER

Whatcom County Public Works Department Stormwater
Attn: Roy McNeece
322 N. Commercial Street, Suite 301
Bellingham WA 98225 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Insurance Services West, Inc.

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Construction Contract Award for Mosquito Lk Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation
CRP No. 911003 – Federal Aid No. BHOS-37XX(002)

ATTACHMENTS:
1. Memo
2. Resolution amending County Road Project (CRP) No. 911003 and awarding construction contract
3. Approval to Award Construction Contract endorsed by Executive
4. Project Summery and Vicinity Map
5. Project Cost Breakdown
6. Bid Tabulation
7. Low Bid Proposal

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

Resolution amending CRP No. 911003 and authorizing additional funds for the award of the Mosquito Lk Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation contract to Matia Contractors Inc as low bidder in the amount of $147,790.00.

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

To: The Honorable Jack Louws, Whatcom County Executive and The Honorable Members of the Whatcom County Council

Through: Frank M. Abart, Director

From: Joseph P. Runan, P.E., County Engineer/Assistant Director
        James E. Lee, P.E., Engineering Manager

Date: July 9, 2013

Re: Mosquito Lk Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation
    CRP No. 911003 - Federal Aid No. BHOS-37XX(002)
    Construction Contract Award to Matia Contractors, Inc.

Attached for your review and signature is the standard construction contract award package for the Mosquito Lake Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation, CRP 911003. This package consists of the following: agenda bill, resolution to amend the CRP and award the contract, approval of contract award, project summary and vicinity map, project cost breakdown, tabulation of all bids and the low bid proposal.

Requested Action
Public Works respectfully requests that the County Council authorize the County Executive to enter into a contract for the Mosquito Lake Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation Project to the low bidder, Matia Contractors, Inc. in the amount of $147,790.00 including all taxes. This recommendation is based on a review of the three (3) bids received.

Background and Purpose
This project consists of installing riprap scour protection around the Mosquito Lake Road Bridge pier and the placement of large woody debris downstream for environmental mitigation. The project is listed as Item No. 23 on the 2013 Annual Construction Program that was adopted by the Council on September 25, 2012.

Funding Amount and Source
100% of the project costs will be funded utilizing federal bridge rehabilitation funds. We recently received fund authorization from WSDOT for the remaining $50,320 of federal bridge rehabilitation funds for this project. Supplement No. 2 to obligate these remaining funds is being sent under separate cover.

Please contact James Lee at extension 50617 if you have any questions or concerns regarding the terms of this agreement.

In accordance with W.C.C. 3.08.230, I concur with this recommendation:

Chris Mohnkern, Purchasing Coordinator

Date 7/11/13
AMENDING COUNTY ROAD PROJECT No. 911003 AND AUTHORIZING ADDITIONAL FUNDS FOR THE AWARD OF A CONTRACT FOR “MOSQUITO LK RD / NORTH FORK NOOKSACK BRIDGE NO. 332 SCOUR MITIGATION.”

WHEREAS, this project is included in the officially adopted 2013 Annual Construction Program as Item No. 28;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that CRP No. 911003 is formally amended to include the construction of the Mosquito Lk Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation. The Contract for this project is awarded to Matia Contractors, Inc. in the amount of their bid of $147,790.00.

An appropriation from the officially adopted Road Fund Budget and based on the County Engineer's estimate is hereby made in the amounts and for the purposes shown:

<table>
<thead>
<tr>
<th>PURPOSE</th>
<th>AMOUNT OF APPROPRIATION</th>
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<tbody>
<tr>
<td>Preliminary Engineering</td>
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<td>Right-of-Way</td>
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<td>Construction Contract</td>
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<td>Construction Engineering/Testing/Contingency</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$247,790</strong></td>
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</table>

BE IT FURTHER RESOLVED that the construction is to be accomplished by Contract in accordance with RCW 36.77.020 et. seq.

APPROVED this ____ day of __________, 20__.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Page 1
Mosquito Lk Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation

CRP No. 911003

Federal Aid No. BHOS-37XX(002)

APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

Project: Mosquito Lk Rd / North Fork Nooksack Bridge No. 332 Scour Mitigation;
CRP No. 911003

To: Matia Contractors, Inc.

In the amount of their bid proposal $147,790.00 including all taxes.

Jack Louws, Whatcom County Executive
Approving Authority

Daniel L. Gibson
Chief Civil Deputy Prosecutor

Date

07/11/13
Mosquito Lake Rd / North Fork Nooksack - Bridge No. 332 Scour Mitigation
CRP #911003

Construction Funding Year(s): 2013

Project Narrative:
This project is located east of Deming in Section 32, T41N, R5E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #28 on the 2013-2018 Six Year Transportation Program.

Project Status:
BRAC funding awarded November 2010. Design is complete and permitting is ongoing.

Total Estimated Project Cost: $196,000
Expenditures to Date: $12,000

Funding Sources:
<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$196,000 (BR)</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$0</td>
</tr>
</tbody>
</table>

Environmental Permitting: HPA, SEPA, SEC 404, NEPA, County Shorelines
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): None
# Project Cost Breakdown

**Mosquito Lk Rd / North Fork Nooksack**
**Bridge No. 332 Scour Mitigation**
**CRP No. 911003**
**Federal Aid No. BHOS-37XX(002)**

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Whatcom County</th>
<th>Federal Funds</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
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<tr>
<td>Right of Way</td>
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<td>$0.00</td>
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<tr>
<td>Contract</td>
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<td>$147,790.00</td>
<td>$147,790.00</td>
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<tr>
<td>Construction Engineering, Testing and Contingency</td>
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<td>$55,000.00</td>
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<tr>
<td>1.</td>
<td>MOBILIZATION</td>
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<td>L.S.</td>
</tr>
<tr>
<td>2.</td>
<td>FLAGGERS AND SPOTTERS, MIN. BID $34.61 PER HOUR</td>
<td>20</td>
<td>HOUR</td>
</tr>
<tr>
<td>3.</td>
<td>OTHER TRAFFIC CONTROL LABOR, MIN. BID $34.61 PER HOUR</td>
<td>20</td>
<td>HOUR</td>
</tr>
<tr>
<td>4.</td>
<td>PROJECT TEMPORARY TRAFFIC CONTROL</td>
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<td>L.S.</td>
</tr>
<tr>
<td>5.</td>
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<td></td>
<td>L.S.</td>
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<tr>
<td>6.</td>
<td>SPEC PLAN</td>
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<td>L.S.</td>
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<tr>
<td>7.</td>
<td>CLEARING AND GRUBBING</td>
<td></td>
<td>L.S.</td>
</tr>
<tr>
<td>8.</td>
<td>KNOTTED REMOVAL</td>
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<td>EST</td>
</tr>
<tr>
<td>9.</td>
<td>REMOVAL OF STRUCTURE AND OBSTRUCTION</td>
<td></td>
<td>L.S.</td>
</tr>
<tr>
<td>10.</td>
<td>ROADWAY EXCAVATION INCL. HAUL</td>
<td>50</td>
<td>CUBIC YARD</td>
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<tr>
<td>11.</td>
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<td>12.</td>
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<tr>
<td>13.</td>
<td>BALLAST</td>
<td>150</td>
<td>TON</td>
</tr>
<tr>
<td>14.</td>
<td>DRILLED BOULDERS</td>
<td>10</td>
<td>EACH</td>
</tr>
<tr>
<td>15.</td>
<td>LARGE WOODY DEBRIS</td>
<td>10</td>
<td>EACH</td>
</tr>
<tr>
<td>16.</td>
<td>INSTALL LIVE WILLOW STAKES</td>
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<td>EACH</td>
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<tr>
<td>17.</td>
<td>EROSION/WATER POLLUTION CONTROL</td>
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<td>18.</td>
<td>CORR EROSION CONTROL BLANKET</td>
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<td>19.</td>
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<td>20.</td>
<td>TOPSOIL TYPE A</td>
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<td>CUBIC YARD</td>
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<td>21.</td>
<td>SEEDING AND FERTILIZING BY HAND</td>
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<td>SQUARE YARD</td>
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<td>22.</td>
<td>ROADSIDE RESTORATION</td>
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<tr>
<td>23.</td>
<td>UNANTICIPATED SITE WORK</td>
<td></td>
<td>EST</td>
</tr>
</tbody>
</table>

**TOTAL**  
$208,100.00  
$217,790.00  
$159,031.00  
$177,710.00

I hereby certify that the amounts tabulated herein are correct and accurately represent the amounts contained in the Engineer's estimate and the respective bid proposals opened at 2:30 P.M., July 2, 2013 for Mosquito Lk Rd North Fork Nooksack Bridge No. 332 Scour Mitigation, CRP No. 911003, Federal Aid No. B60S-377X(002)

[Signature]
Joseph P. Rutan, P.E.
County Engineer

[Signature]
Sandra L. Mock
County Engineer

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this 9th day of July, 2013

[Signature]
Sandra L. Mock
Notary Public
Residing At: Bellington, WA
My commission expires: 6/23/2014
BID PROPOSAL FOR
MOSQUITO LK RD / NORTH FORK NOOKSACK RIVER
BRIDGE #332 SCOUR MITIGATION

CRP NO. 911003
FEDERAL AID NO. BHOS-37XX(002)

DATE: July 2, 2013

TO: Whatcom County Executive and Council
Whatcom County Courthouse
311 Grand Avenue
Bellingham, Washington 98225

Gentlepersons:

This certifies that the Undersigned: has examined the location of the project site and the conditions of work; and has carefully read and thoroughly understands the contract documents entitled: "Mosquito Lk Rd / North Fork Nooksack River Bridge #332 Scour Mitigation Project, CRP No. 911003" Whatcom County, Washington, including the "Bid Procedures and Conditions," "Specifications and Conditions," "Contract Forms," "Construction Plans," and "Appendix," governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents, and agrees to accept as payment for said work, the schedule of lump sum and unit prices as set forth in the "Bid" below.

The Undersigned acknowledges that payment will be based on the actual work performed and material used as measured or provided for in accordance with the said contract documents, and that no additional compensation will be allowed for any taxes not included in each lump sum or unit price, and that the basis for payment will be the actual work performed and measured or provided for in accordance with the said contract documents.

The Undersigned certifies that it is not currently disqualified from bidding on any public works contract under RCW 39.06.010 or RCW 39.12.065(3).
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>UNIT MEASURE</th>
<th>ITEM DESCRIPTION</th>
<th>APPROX. QUANTITY</th>
<th>UNIT PRICE IN FIGURES</th>
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<td>YARD</td>
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<td>$2.00</td>
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<tr>
<td>22</td>
<td>DOLLARS</td>
<td>ROADSIDE RESTORATION</td>
<td>EST</td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>DOLLARS</td>
<td>UNANTICIPATED SITE WORK</td>
<td>EST</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL BID AMOUNT (Bid Items 1-23)** $147,790.00
NON-COLLUSION DECLARATION

MOSQUITO LK / RD NORTH FORK NOOKSACK RIVER
BRIDGE #332 SCOUR MITIGATION

CRP NO. 911003
FEDERAL AID NO. BHOS-37XX(002)

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statements are true and correct:

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (USDOT) operates the above toll free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. Eastern Time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse, and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.
BIDDER IDENTIFICATION

The name of the Bidder submitting this proposal, the address and phone number to which all communications concerned with this proposal shall be made, and the number which has been assigned indicating the Bidder is licensed to do business in the State of Washington are as follows:

Firm Name: MATIA CONTRACTORS, INC.
Address: 2112 BUCHANAN LOOP
FERNDALE WA 98248
Telephone: (360) 676-9177
Contractor's WA Registration Number: Matiaci 136LC
Contractor's WA UBI Number: 601-010-399
Contractor's WA Employment Security Department Number: 620393-00-9
Contractor's WA Excise Tax Registration Number: 601-010-399
The Firm submitting this proposal is a:  

___ Sole Proprietorship

V Partnership

Corporation

The names and titles of the principal officers of the corporation submitting this proposal, or of the partnership, or of all persons interested in this proposal as principals are as follows:

Mary J. Lawrence  President
Name (printed) Title

Name (printed) Title

Name (printed) Title

Name (printed) Title

NOTE: Signatures of this proposal must be identified above. Failure to identify the Signatories will be cause for considering the proposal irregular and for subsequent rejection of the bid.
BID PROPOSAL SIGNATURE AND ADDENDUM ACKNOWLEDGMENT

The bidder is hereby advised that by signature of this proposal he/she is deemed to have acknowledged all requirements and signed all certificates contained herein. The undersigned hereby agrees to pay labor not less than the prevailing rates of wages or less than the hourly minimum rate of wages as specified in the Specifications and Conditions for this project.

☐ CERTIFIED CHECK  IN THE AMOUNT OF ______________________________________

☐ CASHIER'S CHECK ________________________________________________________ DOLLARS

☑ PROPOSAL BOND ($__________) PAYABLE TO WHATCOM COUNTY

IN THE AMOUNT OF 5% OF THE BID.

Bidder acknowledges receipt of Addenda by checking the box(es) 1 ☐ 2 ☐ 3 ☐ 4 ☐

SIGNATURE OF AUTHORIZED OFFICIAL(S)

(PROPOSAL MUST BE SIGNED)  [Signature]

(Seal)

FIRM NAME: Matia Contractors, Inc.

STATE OF WASHINGTON )

COUNTY OF WHATCOM ) ss.

On this 2nd day of July, 2013 before me personally appeared

Mary J. Lawrence to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof

Letha J. Nelson

NOTARY PUBLIC, in and for the State of Washington, residing at: Ferndale WA

My Commission Expires: 3/22/2014

This proposal form is not transferable and any alteration of the firm’s name entered hereon without prior permission from the County will be cause for considering the proposal irregular and for subsequent rejection of the bid.

Mosquito Lk Rd / North Fork Nooksack River Bridge #332 Scour Mitigation
CRP 911003, Federal Aid No. BHOS-37XX(002)
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
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<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Orig:</td>
<td>DMP</td>
<td>07/10/13</td>
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<td>7/23/2013</td>
<td>Finance</td>
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<tr>
<td>Dept. Head:</td>
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<td>7/10/17</td>
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<td>Prosecutor:</td>
<td>L.</td>
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<td>Purchasing/Budget:</td>
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<td>Executive:</td>
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**TITLE OF DOCUMENT:**

**ATTACHMENTS:**

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<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>No</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**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.)

Washington Association of Sheriffs and Police Chiefs has allocated funding to local law enforcement for fiscal year 2013 to verify the address and residency of all registered sex offenders and kidnapping offenders in accordance with RCW 9A.44.130. The amount allocated to Whatcom County is $140,026.07 for the period July 1, 2013 through June 30, 2014.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

**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

TO: Jack Louws, County Executive
FROM: Bill Elfo, Sheriff
DATE: July 10, 2013
RE: Registered Sex Offender Address and Residency Verification Program
    July 1, 2013 – June 30, 2014

Enclosed for your review and signature are two (2) original contracts between Whatcom County and Washington Association of Sheriffs and Police Chiefs for Registered Sex Offender Verification Program funding.

• Background and Purpose
  Interagency agreement provides state funding for personnel to staff the registration program which tracks the addresses and residencies of all registered sex offenders and kidnapping offenders in Whatcom County in accordance with RCW 9A.44.130.

• Funding Amount and Source
  State funding of $140,026.07 is from Washington Association of Sheriffs and Police Chiefs.

• Differences from Previous Contract
  A decrease in funding of $736.26 from previous year.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Enclosures
WHATCOM COUNTY CONTRACT
INFORMATION SHEET

Originating Department: Whatcom County Sheriff’s Office
Contract Administrator: Sheriff Bill Elfo
Contractor’s / Agency Name: Washington Association of Sheriffs and Police Chiefs

Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract?
Yes _X_ No _____ Yes _____ No _____ If yes, previous number(s): ____________

Is this a grant agreement?
Yes _X_ No _____ If yes, grantor agency contract number(s) _RSO FY 2013_ CFDA # _____ N/A _____

Is this contract grant funded?
Yes _____ No _____ If yes, associated Whatcom County grant contract number(s) ____________

Is this contract the result of a RFP or Bid process?
Yes ______ No _X_ If yes, RFP and Bid number(s) ____________ Cost Center: __2978_____

Is this contract excluded from E-Verify? No _____ Yes _____ If no, include Attachment D Contractor Declaration Form
If yes, indicate qualified exclusion(s) below:
___ Contract less than $100,000.
___ Work is for less than 120 days
___ InterLocal Agreement (between Govt.)
___ Professional services agreement for certified/licensed professional
___ Contract for Commercial off the shelf items (COTS)
___ Public Works Dept. - Local Agency/Federally Funded FHWA

Contract Amount:(sum of orig contract amt and any prior amendments)
$ 140,026.07 ____________

This Amendment Amount:
$ ____________
Total Amended Amount:
$ 140,026.07 ____________

If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.

Scope of Services: [Insert language from contract (Exhibit A) or summarize; expand space as necessary]
Continue employment of one full time and one part time employee to assist with the registered sex and kidnapping offender tracking program within the Sheriff’s Office in accordance with RCW 9A.44.130

Term of Contract: 07/01/13
Expiration Date: 06/30/14

Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]
1. Prepared by DMP ____________ Date 07/10/13 [electronic]
2. Attorney reviewed ____________ Date 7/11/13 [electronic]
3. AS Finance reviewed ____________ Date 7/11/13 [electronic]
4. IT reviewed if IT related ____________ Date 7/11/13 [electronic]
5. Corrections made ____________ Date 7-12-13 [summary via electronic; hardcopies]
6. Attorney signoff ____________ Date 07/11/13
7. Contractor signed ____________ Date 07/11/13
8. Submitted to Exec Office ____________ Date 07/11/13
9. Council approved (if necessary) ____________ Date
10. Executive signed ____________ Date
11. Contractor Original Returned to dept. ____________ Date
12. County Original to Council ____________ Date

Last Revised 1/19/12

113
WASHINGTON ASSOCIATION OF SHERIFFS AND POLICE CHIEFS
INTERAGENCY AGREEMENT
SPECIFIC TERMS AND CONDITIONS

Registered Sex Offender Address and Residency Verification Program

This AGREEMENT is entered into by and between the WASHINGTON ASSOCIATION
OF SHERIFFS AND POLICE CHIEFS (hereinafter referred to as WASPC) and the
WHATCOM COUNTY SHERIFF'S OFFICE (hereinafter referred to as the
RECIPIENT).

1. Award Recipient Name and Address:
   WHATCOM COUNTY SHERIFF'S OFFICE
   311 Grand Ave
   Bellingham, WA 98225

2. Contact:  Bill Elfo
   Title:    Sheriff
   Phone:   360-676-6650

3. Project Title
   Registered Sex Offender Verification

4. Award Period:
   07/01/13 - 06/30/14

5. Grant No:
   RSO 13-14 Whatcom

6. Funding Authority:
   WASHINGTON ASSOCIATION OF
   SHERIFFS AND POLICE CHIEFS

7. Amt. Approved
   $ 140,026.07

8. Service Area:
   Whatcom County

FUNDING SOURCE

Funding for this AGREEMENT is provided to WASPC from the State of Washington. Funding
awarded the RECIPIENT shall not exceed the amount shown on the award letter.

SCOPE OF SERVICES

The RECIPIENT shall use the funds awarded to meet the requirements identified in the award
letter. The required quarterly report will be submitted within ten days of the end of the quarter.
Funds will be disbursed in equal amounts by the end of the reporting month. Delays in report
submittal or project related activities may result in disbursement of funds delay.

IN WITNESS WHEREOF, WASPC and RECIPIENT acknowledge and accept the terms of this
AGREEMENT and attachments hereto, and in witness whereof have executed this
AGREEMENT as of the date and year written below. The rights and obligations of both parties
to this AGREEMENT are governed by the information on this Award Sheet and Letter and other
documents incorporated herein.

FOR WASPC:

____________________________
Name: Mitch Barker
Title: Executive Director
Date: July 1, 2013

FOR THE RECIPIENT:

see attached

____________________________
Name:
Title:
Date:
WHATCOM COUNTY:
Recommended for Approval:

[Signature]  7-10-20?
Sheriff                Date

Approved as to form:

[Signature]  7-11-13
Prosecuting Attorney    Date

Approved:
Accepted for Whatcom County:

By: ______________________   
Jack Louws, Whatcom County Executive     Date

STATE OF WASHINGTON   
)  
COUNTY OF WHATCOM   ) ss

On this _____ day of ______________, 20 __, before me personally appeared Jack Louws, to me
known to be the Executive of Whatcom County, who executed the above instrument and who
acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at________________________.
My commission expires ____________________.
AGENCY RSO CONTACT INFORMATION

WASPC requires three individuals be designated to the positions of Authorized Official, Project Director and Financial Officer for the purposes of administering a grant. The Project Director and the Financial Officer may not be the same person, however, under extenuating circumstances, one person may otherwise fill two positions.

Applicant Agency: Whatcom County Sheriff’s Office

<table>
<thead>
<tr>
<th>PROJECT MANAGER</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Chadwick</td>
<td>Doug</td>
</tr>
<tr>
<td>Last Name</td>
<td>First Name</td>
</tr>
<tr>
<td>Public Safety Building, 311 Grand Avenue</td>
<td>Bellingham</td>
</tr>
<tr>
<td>Business Mailing Address</td>
<td>City</td>
</tr>
<tr>
<td>360-676-6650</td>
<td>360-738-2494</td>
</tr>
<tr>
<td>Telephone</td>
<td>Fax</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FINANCIAL OFFICER/GRANT ADMIN.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Parks</td>
<td>Jeff</td>
</tr>
<tr>
<td>Last Name</td>
<td>First Name</td>
</tr>
<tr>
<td>Public Safety Building, 311 Grand Avenue</td>
<td>Bellingham</td>
</tr>
<tr>
<td>Business Mailing Address</td>
<td>City</td>
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<tr>
<td>360-676-6650</td>
<td>360-738-2494</td>
</tr>
<tr>
<td>Telephone</td>
<td>Fax</td>
</tr>
</tbody>
</table>

The Authorized Official is the Chief Executive Officer, or Designee of the Agency.

<table>
<thead>
<tr>
<th>Elfo</th>
<th>Bill</th>
<th>Sheriff</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Name</td>
<td>First Name</td>
<td>Title</td>
</tr>
<tr>
<td>Public Safety Building, 311 Grand Avenue</td>
<td>Bellingham</td>
<td>WA 98225</td>
</tr>
<tr>
<td>Business Mailing Address</td>
<td>City</td>
<td>State Zip</td>
</tr>
<tr>
<td>360-676-6650</td>
<td>360-738-2494</td>
<td><a href="mailto:belfo@co.whatcom.wa.us">belfo@co.whatcom.wa.us</a></td>
</tr>
<tr>
<td>Telephone</td>
<td>Fax</td>
<td>Email</td>
</tr>
</tbody>
</table>
AGENCY RSO CONTACT INFORMATION

WASPC requires three individuals be designated to the positions of Authorized Official, Project Director and Financial Officer for the purposes of administering a grant. The Project Director and the Financial Officer may not be the same person, however, under extenuating circumstances, one person may otherwise fill two positions.

**Applicant Agency:** Whatcom County Sheriff’s Office

---

**GRANT ACCOUNTANT**

<table>
<thead>
<tr>
<th>Pierce</th>
<th>Dawn</th>
<th>Financial Accountant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Name</td>
<td>First Name</td>
<td>Title</td>
</tr>
</tbody>
</table>

Public Safety Building, 311 Grand Avenue

<table>
<thead>
<tr>
<th>Bellingham</th>
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<th>98225</th>
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<tr>
<td>Business Mailing Address</td>
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<td>State</td>
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<tr>
<th>360-676-6650</th>
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<th><a href="mailto:dpierce@co.whatcom.wa.us">dpierce@co.whatcom.wa.us</a></th>
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</thead>
<tbody>
<tr>
<td>Telephone</td>
<td>Fax</td>
<td>Email</td>
</tr>
</tbody>
</table>

---

**FINANCIAL OFFICER/GRANT ADMIN.**

| | | |
| Last Name | First Name | Title |
| Business Mailing Address | City | State | Zip |

| | | |
| Telephone | Fax | Email |

---

**THE AUTHORIZED OFFICIAL IS THE CHIEF EXECUTIVE OFFICER, OR DESIGNEE OF THE AGENCY.**

| | | |
| Last Name | First Name | Title |
| Business Mailing Address | City | State | Zip |

| | | |
| Telephone | Fax | Email |
Registered Sex Offender
Address Verification Quarterly Grant Report

Agency: __________________________  □ 1st Qtr □ 2nd Qtr □ 3rd Qtr □ 4th Qtr

Address: __________________________  Months: __________  Yr: __________

Contact: __________________________  Number: __________  Email: __________________________

<table>
<thead>
<tr>
<th></th>
<th>Level I</th>
<th>Level II</th>
<th>Level III</th>
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<tbody>
<tr>
<td>Number of registered sex offenders at the beginning of the quarter</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of face-to-face address verifications made for quarter</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Number of face-to-face address verifications made year-to-date</td>
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<tr>
<td>Number of sex offenders registering as homeless</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of false homeless reporting*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>*reporting as homeless but living at a residence, in another county, etc.-anecdotal</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of registered sex offenders not at reported address</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of resulting arrests for failure to register</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of resulting prosecutions for failure to register</td>
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<tr>
<td>Number of arrests on new sex offense charges</td>
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<tr>
<td>Number of arrests on unrelated warrants or charges</td>
<td></td>
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</table>

Any addition comments: __________________________________________________________

Please submit completed report at the end of each quarter (quarters end March 31, June 30, September 30, and December 31) and are due no later than the 10th of the following month. Once the report is received a check for 25% of your total award will be automatically sent to your agency. Reports can be emailed to Dawn Larsen at dlarsen@waspco.org, mailed to Washington Association of Sheriffs & Police Chiefs, 3060 Willamette Drive NE Lacey, WA 98516, or faxed to (360) 486-2381.

RSO - Quarterly Report
Rev: Jan 2013
### Whatcom County Council Agenda Bill

**Clearances**

<table>
<thead>
<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
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<tbody>
<tr>
<td></td>
<td>PJ</td>
<td>6/21/13</td>
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<table>
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<tr>
<th>Division Head:</th>
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<tbody>
<tr>
<td></td>
<td>7/12/13</td>
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<table>
<thead>
<tr>
<th>Dept. Head:</th>
<th>Date</th>
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<tbody>
<tr>
<td>DAD</td>
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<table>
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<tr>
<th>Prosecutor:</th>
<th>Date</th>
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<tr>
<td>ELG</td>
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<table>
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<tr>
<th>Purchasing/Budget:</th>
<th>Date</th>
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<tr>
<td></td>
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<table>
<thead>
<tr>
<th>Executive:</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7/14/13</td>
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</tbody>
</table>

**Title of Document:** Contract with Interfaith Community Health Center

**Attachments:**
1. Memo
2. Info Sheet
3. 2 copies of Contract

**SEPA Review Required:** ( ) Yes ( X ) No
**SEPA Review Completed:** ( ) Yes ( X ) No

**Should Clerk Schedule a Hearing?** ( ) Yes ( X ) No

---

**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.)

The purpose of this agreement is to provide start-up funding to Interfaith Community Health Center for a two-year period to enhance delivery of comprehensive services to individuals living with serious and persistent mental illness. The goal of the funding agreement is to partially fund a full-time Behavioral Health Case Manager in the Interfaith Community Health Center.

---

**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

TO:       Jack Louws, County Executive
FROM:    Regina A. Delahunt
RE: Interfaith Community Health Center, Behavioral Health Case Management
DATE: July 15, 2013

Enclosed are two (2) originals of a contract between Whatcom County and Interfaith Community Health Center for your review and signature.

- **Background and Purpose**
  Recent studies have found that people living with severe and persistent mental illness have an average life span 25 years shorter than the general population. People living with these serious health conditions often suffer from poor health outcomes due to lack of coordinated health care among their various providers. Due to the lack of a coordinated approach to health care, patients seek health care through various urgent and emergent visits to the emergency services. The purpose of this agreement is to provide start-up funding to Interfaith Community Health Center for a two-year period to enhance delivery of comprehensive services to individuals living with serious and persistent mental illness. The goal of the funding agreement is to partially fund a full-time equivalent Behavioral Health Case Manager in the Interfaith clinic. It is expected that income generated as a result of Medicaid expansion will support the Behavioral Health Case Manager activities over time.

- **Funding Amount and Source**
  This new contract is a result of RFP 12-78 and is funded by the Chemical Dependency/Mental Health Program Fund in an amount not to exceed $76,752 over the 2 year contract period. Funding for this contract is in the 2013-2014 budget. Council approval is required because the contract exceeds $20,000. An Agenda Bill is attached.

Please contact Anne Deacon at extension 50877, if you have any questions or concerns regarding the terms of this agreement.

Encl.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

| Contract Administrator: | Health
|-------------------------|--------|
| Contractor's / Agency Name: | Interfaith Community Health Center

<table>
<thead>
<tr>
<th>Is this a New Contract?</th>
<th>If not, is this an Amendment or Renewal to an Existing Contract?</th>
<th>Yes X No Yes No If yes, previous number(s):</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Is this a grant agreement?</th>
<th>If yes, grantor agency contract number(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes X No X</td>
<td>CFDA number</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract grant funded?</th>
<th>If yes, associated Whatcom County grant contract number(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes X No X</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract the result of a RFP or Bid process?</th>
<th>Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes X No</td>
<td>If yes, RFP and Bid number(s) 12-78 Cost Center: 124100</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is this contract excluded from E-Verify?</th>
<th>No X Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>If no, include Attachment D Contractor Declaration Form</td>
<td></td>
</tr>
</tbody>
</table>

| Contract less than $100,000. |
| Professional services agreement for certified/licensed professional services |

| Work is for less than 120 days |
| Contract for Commercial off the shelf items (COTS) |

| Interlocal Agreement (between Govt.) |
| Public Works Dept. - Local Agency/Federally Funded FHWA |

<table>
<thead>
<tr>
<th>Contract Amount: (sum of orig contract amt and any prior amendments)</th>
<th>$76,752.00</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>This Amendment Amount:</th>
<th>$</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Total Amended Amount:</th>
<th>$76,752.00</th>
</tr>
</thead>
</table>

**Scope of Services:** [Insert language from contract (Exhibit A) or summarize; expand space as necessary]

The purpose of this agreement is to provide start-up funding to Interfaith Community Health Center for a two-year period to build their enhancement of comprehensive services to individuals living with serious and persistent mental illness. The goal of the funding agreement is to partially fund a full-time equivalent Behavioral Health Case Manager in the Interfaith Community Health Center.

**Term of Contract:** 08/01/2013 – 07/31/2015

**Expiration Date:** 07/31/2015

**Contract Routing Steps & Signoff:** [sign or initial] [indicate date transmitted]

1. Prepared by: pj Date 6/21/13 [electronic]
2. Attorney reviewed: gallery Date 7/10/13 [electronic]
3. AS Finance reviewed: mdc Date 7/9/13 [electronic]
4. IT reviewed if IT related Date [electronic] [hard copy printed]
5. Corrections made: Date 7/10/13
6. Attorney signoff: Date
7. Contractor signed: Date
8. Submitted to Exec Office Date 7/10/13 [summary via electronic; hardcopies]
9. Reviewed by DCA Date
10. Council approved (if necessary) Date
11. Executive signed: Date
12. Contractor Original Returned to dept: Date
13. County Original to Council Date
<table>
<thead>
<tr>
<th><strong>Originating Department:</strong></th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contract Person:</strong></td>
<td>Anne Deacon</td>
</tr>
<tr>
<td><strong>Contractor's Name:</strong></td>
<td>Interfaith Community Health Center</td>
</tr>
</tbody>
</table>

**First Review:**
- ☐ Approved As Is; Prepare Hardcopy for Signoff
- ☐ Needs Revision; Attorney Comments for suggested changes:

**Second Review:**
- ☐ Implemented Attorney Corrections as Indicated
- ☐ Approved; Prepare Hardcopy for Signoff
- ☐ Additional Corrections Needed; Attorney Comments for suggested changes:

Please indicate any Special Dates or clauses that require calendaring:

---

Leave this page attached to summary coversheet until final signoff by attorney. Do not leave attached when routing to Contractor for signature.
Interfaith Community Health Center, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 8.
Exhibit A (Scope of Work), pp. 9 to 10.
Exhibit B (Compensation), p. 11 to 12.

Copies of these items are attached hereto and incorporated herein by this reference as if fully set forth herein.

The term of this Agreement shall commence on the 1st day of August, 2013 and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of July, 2015.

The general purpose or objective of this Agreement is to provide behavioral health case management, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed $76,752. The Contract Number, set forth above, shall be included on all billings or correspondence in connection therewith.

Contractor acknowledges and by signing this contract agrees that the indemnification provisions set forth in Paragraphs 11.1, 21.1, 30.1, 31.2, 32.1, 34.2, and 34.3, if included, are totally and fully part of this contract and have been mutually negotiated by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of ________________, 2013.

CONTRACTOR:

Interfaith Community Health Center

______________________________
Desmond Skubi, Executive Director

STATE OF WASHINGTON

) ss.

COUNTY OF ____________________

On this ___ day of ________________, 2013, before me personally appeared Desmond Skubi, to me known to be the executive director of Interfaith Community Health Center and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at _____________________. My commission expires _____________________.

HI_080113_Interfaith_Community_Health_Center-Behavioral_Health_Case_Mgmt
WHATCOM COUNTY:
Recommended for Approval:

______________  ______________
Anne Deacon, Human Services Manager  Date

______________  ______________
Regina A. Delahunt, Department Director  Date

Approved as to form:

______________  ______________
Elizabeth L. Gallery, Deputy Prosecuting Attorney  Date

Approved:
Accepted for Whatcom County:

By: ____________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this ______ day of __________________________, 2013, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at ______________________., My commission expires ______________________.

CONTRACTOR INFORMATION:

Interfaith Community Health Center
Desmond Skubi, Executive Director
800 E Chestnut St.
Bellingham, WA 98225
(360) 312-5115
des_skubi@interfaithchc.org
GENERAL CONDITIONS

Series 00-09: Provisions Related to Scope and Nature of Services

0.1 Scope of Services:
The Contractor agrees to provide to the County services and any materials as set forth in the project narrative identified as Exhibit "A", during the agreement period. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

Series 10-19: Provisions Related to Term and Termination

10.1 Term:
Services provided by Contractor prior to or after the term of this contract shall be performed at the expense of Contractor and are not compensable under this contract unless both parties hereto agree to such provision in writing. The term of this Agreement may be extended by mutual agreement of the parties; provided, however, that the Agreement is in writing and signed by both parties.

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three years.

11.1 Termination for Default:
If the Contractor defaults by failing to perform any of the obligations of the contract or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the County may, by depositing written notice to the Contractor in the U.S. mail, first class postage prepaid, terminate the contract, and at the County's option, obtain performance of the work elsewhere. Termination shall be effective upon Contractor's receipt of the written notice, or within three (3) days of the mailing of the notice, whichever occurs first. If the contract is terminated for default, the Contractor shall not be entitled to receive any further payments under the contract until all work called for has been fully performed. Any extra cost or damage to the County resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the County in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the County by reason of such default.

11.2 Termination for Reduction in Funding:
In the event that funding from State, Federal or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement, and prior to its normal completion, the County may summarily terminate this Agreement as to the funds withdrawn, reduced, or limited, notwithstanding any other termination provisions of this Agreement. If the level of funding withdrawn, reduced or limited is so great that the County deems that the continuation of the programs covered by this Agreement is no longer in the best interest of the County, the County may summarily terminate this Agreement in whole, notwithstanding any other termination provisions of this Agreement. Termination under this section shall be effective upon receipt of written notice as specified herein, or within three days of the mailing of the notice, whichever occurs first.

11.3 Termination for Public Convenience:
The County may terminate the Agreement in whole or in part whenever the County determines, in its sole discretion, that such termination is in the interests of the County. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the County at any time during the term, whether for default or convenience, shall not constitute breach of contract by the County.

Series 20-29: Provisions Related to Consideration and Payments

20.1 Accounting and Payment for Contractor Services:
Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by the County, payment shall be based upon written claims supported, unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including, where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested, so as to comply with municipal auditing requirements.
Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for the County or his designee (hereinafter referred to as the "Administrative Officer") the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract. Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, in accordance with the County's customary procedures, pursuant to the fee schedule set forth in Exhibit "B."

21.1 Taxes:
The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to withhold for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes, including, but not limited to, Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

22.1 Withholding Payment:
In the event the County's Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due or to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the County under this clause.

23.1 Labor Standards:
The Contractor agrees to comply with all applicable state and federal requirements, including but not limited to those pertaining to payment of wages and working conditions, in accordance with RCW 39.12.040, the Prevailing Wage Act; the Americans with Disabilities Act of 1990; the Davis-Bacon Act; and the Contract Work Hours and Safety Standards Act providing for weekly payment of prevailing wages, minimum overtime pay, and providing that no laborer or mechanic shall be required to work in surroundings or under conditions which are unsanitary, hazardous, or dangerous to health and safety as determined by regulations promulgated by the Federal Secretary of Labor and the State of Washington.

Series 30-39: Provisions Related to Administration of Agreement

30.1 Independent Contractor:
The Contractor's services shall be furnished by the Contractor as an independent contractor, and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to employees of the County. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.
30.2 Assignment and Subcontracting:
The performance of all activities contemplated by this agreement shall be accomplished by the Contractor. No portion of this contract may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the County.

30.3 No Guarantee of Employment:
The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

31.2 Patent/Copyright Infringement: Not Applicable

32.1 Confidentiality:
The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the Contractor in performance of this Agreement, except upon the prior written consent of the County or an order entered by a court after having acquired jurisdiction over the County. Contractor shall immediately give to the County notice of any judicial proceeding seeking disclosure of such information. Contractor shall indemnify and hold harmless the County, its officials, agents or employees from all loss or expense, including, but not limited to, settlements, judgments, setoffs, attorneys' fees and costs resulting from Contractor's breach of this provision.

33.1 Right to Review:
This contract is subject to review by any Federal, State or County auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Administrative Officer or by the County Auditor's Office. Such review may occur with or without notice and may include, but is not limited to, on-site inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for three (3) years after contract termination, and shall make them available for such review, within Whatcom County, State of Washington, upon request.

34.1 Proof of Insurance:
The Contractor shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:
Property Damage per occurrence - $500,000.00
General Liability & Property Damage for bodily injury- $1,000,000.00

A Certificate of insurance, that also identifies the County as an additional insured, is attached hereto as Exhibit "C". This insurance shall be considered as primary and shall waive all rights of subrogation. The County insurance shall be noncontributory.

a. Professional Liability - $1,000,000 per occurrence:
If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

34.2 Industrial Insurance Waiver:
With respect to the performance of this agreement and as to claims against the County, its officers, agents and employees, the Contractor expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this agreement extend to any claim brought by or on behalf of any employee of the Contractor. This waiver is mutually negotiated by the parties to this agreement.

34.3 Defense & Indemnity Agreement:
The Contractor agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including, but not limited to, judgments, settlements, attorneys' fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its subcontractors, its successor or assigns, or its agents, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County or its appointed or elected officials or employees. In case of damages caused by the concurrent negligence of Contractor, its subcontractors, its successors or
assigns, or its agents, servants, or employees, and the County, its appointed or elected officers, employees or their agents, then this indemnification provision is enforceable only to the extent of the negligence of the Contractor, its agents, or its employees.

It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein. The parties specifically agree that this agreement is for the benefit of the parties only and this agreement shall create no rights in any third party.

35.1 Non-Discrimination in Employment:
The County’s policy is to provide equal opportunity in all terms, conditions and privileges of employment for all qualified applicants and employees without regard to race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status. The Contractor shall comply with all laws prohibiting discrimination against any employee or applicant for employment on the grounds of race, color, creed, religion, national origin, sex, sexual orientation, age, marital status, disability, or veteran status, except where such constitutes a bona fide occupational qualification.

Furthermore, in those cases in which the Contractor is governed by such laws, the Contractor shall take affirmative action to insure that applicants are employed, and treated during employment, without regard to their race, color, creed, religion, nationa origin, sex, age, marital status, sexual orientation, disability, or veteran status, except where such constitutes a bona fide occupational qualification. Such action shall include, but not be limited to: advertising, hiring, promotions, layoffs or terminations, rate of pay or other forms of compensation benefits, selection for training including apprenticeship, and participation in recreational and educational activities. In all solicitations or advertisements for employees placed by them or on their behalf, the Contractor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The foregoing provisions shall also be binding upon any subcontractor, provided that the foregoing provision shall not apply to contracts or subcontracts for standard commercial supplies or raw materials, or to sole proprietorships with no employees.

35.2 Non-Discrimination in Client Services:
The Contractor shall not discriminate on the grounds of race, color, creed, religion, national origin, sex, age, marital status, sexual orientation, disability, or veteran status; or deny an individual or business any service or benefits under this Agreement; or subject an individual or business to segregation or separate treatment in any manner related to his/her/its receipt any service or services or other benefits provided under this Agreement; or deny an individual or business an opportunity to participate in any program provided by this Agreement.

36.1 Waiver of Noncompetition: Not Applicable

36.2 Conflict of Interest:
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County’s interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County’s interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 Administration of Contract:
This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington. The Contractor also agrees to comply with applicable federal, state, county or municipal standards for licensing, certification and operation of facilities and programs, and accreditation and licensing of individuals.

The County hereby appoints, and the Contractor hereby accepts, the Whatcom County Executive, and his or her designee, as the County’s representative, hereinafter referred to as the Administrative Officer, for the purposes of administering the provisions of this Agreement, including the County’s right to receive and act on all reports and documents, and any auditing performed by the County related to this Agreement. The Administrative Officer for purposes of this agreement is:

Insert here (name, job title, work address)

37.2 Notice:
Except as set forth elsewhere in the Agreement, for all purposes under this Agreement except service of process, notice shall be given by the Contractor to the County’s Administrative Officer under this Agreement. Notice to the Contractor for all purposes under this Agreement shall be given to the address provided by the Contractor herein above in the “Contractor Information” section. Notice may be given by delivery or by depositing in the US Mail, first class, postage prepaid.
38.1 Certification of Public Works Contractor's Status under State Law: Not Applicable

38.2 Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions: Not Applicable

38.3 E-Verify: Not Applicable

**Series 40-49: Provisions Related to Interpretation of Agreement and Resolution of Disputes**

40.1 Modifications:
Either party may request changes in the Agreement. Any and all agreed modifications, to be valid and binding upon either party, shall be in writing and signed by both of the parties.

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

41.1 Severability:
If any term or condition of this contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this contract are declared severable.

41.2 Waiver:
Waiver of any breach or condition of this contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this contract shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the parties hereto. The failure of the County to insist upon strict performance of any of the covenants and agreements of this Agreement, or to exercise any option herein conferred in any one or more instances, shall not be construed to be a waiver or relinquishment of any such, or any other covenants or agreements, but the same shall be and remain in full force and effect.

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, 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. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

b. Notice of Potential Claims:
The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the Administrative Officer or the County, or (2) the happening of any event or occurrence, unless the Contractor has given the County a written Notice of Potential Claim within ten (10) days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the County. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

c. Detailed Claim:
The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within thirty (30) days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the County, the Contractor has given the County a detailed written statement of each element of cost or other compensation requested and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

d. Arbitration: Not Applicable

43.1 Venue and Choice of Law:
In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington in and for the County of Whatcom. This Agreement shall be governed by the laws of the State of Washington.

44.1 Survival:
The provisions of paragraphs 11.1, 11.2, 11.3, 21.1, 22.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.2, 34.3, 36.1, 40.2, 41.2, 42.1, and 43.1, if utilized, shall survive, notwithstanding the termination or invalidity of this Agreement for any reason.

45.1 **Entire Agreement:**
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
Background

Recent studies have found that people living with severe and persistent mental illness have an average life span 25 years shorter than the general population. People living with these serious health conditions often suffer from poor health outcomes due to lack of coordinated health care among their various providers. These individuals live with high level medical and behavioral health needs that require a team of health professionals to treat effectively. When no coordinated team exists to provide proactive comprehensive care, patients seek health care through various urgent and emergent visits to the hospital Emergency Department, EMS (Emergency Management Services) responses, and various medical clinics. They feel disconnected from their health care and consequently may feel little commitment to learn how to manage their complex health issues. Thus, the care they do receive is often intermittent, and not coordinated among their various providers. As a result, they are less likely to receive the comprehensive health care services required for their stable health.

The Federally Qualified Health Clinics (Interfaith and Sea Mar) in Whatcom County have co-located behavioral health staff with their medical staff in an attempt to coordinate care more effectively for these complex patients. Medicaid funds only some of the services delivered, and a large number of patients are not currently covered by Medicaid benefits. The number of uninsured patients has doubled since 2008, and the complexity of the patients has increased as well, especially those living with serious and persistent mental illness. Medicaid expansion, due to begin in January 2014, will potentially cover approximately 60% of Interfaith Community Health Center’s currently uninsured population served in their behavioral health programs. However, Interfaith will continue to serve the uninsured, even those who are slow to enroll in Medicaid in 2014.

Case management services are not billable except in very limited circumstances therefore there is no ready mechanism to fund a dedicated case management position within the organization. Consequently most of the case management currently done is performed by existing counseling and medical provider staff as an unbilled service. This level of case management is insufficient to provide positive health outcomes for clients, and to reduce the routine use of emergency room services. During this startup period contractor will transfer case management services from medical provider and counseling staff so that medical providers and counseling staff can enhance revenues by providing more billable services. Over the period of this contract, increases in billable services will provide revenues at a sufficient level to fund a dedicated case management position.

Interfaith has made strident efforts to provide coordinated behavioral and medical health care to its patients. The most vulnerable and complex patients noted above need a depth of service often unavailable within their current resources. The addition of a Behavioral Health Case Manager position would provide these patients with additional engagement and coordination services. These services would increase the likelihood of positive health outcomes through regular monitoring of mental and general health symptoms, connection to community support systems, and collaborative care planning and delivery.
Purpose

The purpose of this agreement is to provide start-up funding to Interfaith Community Health Center for a two-year period to build their enhancement of comprehensive and coordinated services to individuals living with serious and persistent mental illness. The goal of the funding agreement is to partially reimburse costs of a full-time equivalent Behavioral Health Case Manager in the Interfaith clinic.

Scope of Work

The Contractor will employ one full-time equivalent Behavioral Health Case Manager who will be located in an office with close proximity to Interfaith’s medical and behavioral health clinics. Minimum qualifications for this position will be a Bachelor’s degree in a social service field, with supervision from a licensed Mental Health Professional. The primary focus of the Case Manager’s work will be to provide wrap around/supportive services to patients of Interfaith who are living with serious and persistent mental illness. This position’s other tasks and duties will include:

1. Function as a core member of an Interfaith collaborative care team that involves the behavioral health team, the patient’s primary care provider, consulting psychiatrists, nursing staff, and other clinic staff pertinent to the patient
2. Establish professional relationships with social service agencies in order to set up near seamless referral systems and timely communication methods
3. Screen, assess and connect patients to support services necessary to promote ongoing patient engagement in their health and behavioral health care plan
4. Assist patients with procurement of eligible benefits (i.e., Medicaid, Social Security), transportation, housing, food and nutrition
5. Screen/assess to ensure patient’s personal safety is optimized
6. Engage with patients who utilize emergency care systems for needs that could be met in less expensive primary care settings
7. Enter pertinent patient information into Interfaith’s Electronic Medical Record (EMR)
8. Provide social services information and referral services to non-Interfaith individuals who “walk-in” to the clinic seeking help or services.

Reporting Requirements

The Contractor will submit quarterly reports documenting the number of patients served by the Behavioral Health Case Manager. This number will be divided into two sections: a) uninsured patients and b) insured or Medicaid patients. The report should also include a brief narrative, no more than one page, that describes the type of services delivered (i.e., Information & Referral, Care Coordination with Primary Care Clinic, Care Coordination with Social Service Agencies, Re-engagement Services, Assistance with Access to Eligible Benefits). Quarterly reporting will include progress toward generating revenues to support the Behavioral Health Case Manager position including increased billable hours of mental health professionals, medical providers, increased ER “savings pools” and insurance reimbursements.
EXHIBIT "B"
(COMPENSATION)

I. **Budget and Source of Funding:** The source of funding for this contract, in an amount not to exceed $76,752.00 is the Chemical Dependency/Mental Health Program Fund.

II. **Budget, Rates, and/or Allowable Costs:** The budget for this cost reimbursement contract is as follows:

<table>
<thead>
<tr>
<th>Cost Description</th>
<th>Documents Required Each Invoice</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013 Behavioral Health Case Manager salary and benefits</td>
<td>General Ledger detail</td>
<td>$15,990.00</td>
</tr>
<tr>
<td>2014 Behavioral Health Case Manager salary and benefits</td>
<td>General Ledger detail</td>
<td>$38,376.00</td>
</tr>
<tr>
<td>2015 Behavioral Health Case Manager Salary and benefits</td>
<td>General Ledger detail</td>
<td>$22,386.00</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td><strong>$76,752.00</strong></td>
</tr>
</tbody>
</table>

Costs may be reallocated between budget periods with county authorization.

III. **Invoicing**

1. The Contractor shall submit itemized invoices on a monthly or quarterly basis in a format approved by the County. Monthly/quarterly invoices must be submitted by the 10th of the month following the last month of service. Invoices submitted for payment must include the items identified in the table above.

2. The Contractor shall submit invoices to *(include contract/PO #)*:

   Attention: Business Office
   Whatcom County Health Department
   509 Girard Street
   Bellingham, WA 98225

3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

4. Invoices must include the following statement, with an authorized signature and date:

   **I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.**

5. **Duplication of Billed Costs or Payments for Service:** The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for
EXHIBIT "C"
(INSURANCE CERTIFICATE)
ATTACHMENTS:
1. Two copies of the Thrive By Five Grant Agreement
2. Memo
3. Info Sheet

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

Last year was the first year that Whatcom County received this grant to implement the Nurse-Family Partnership (NFP) program. The program utilizes a home visiting model to support low income first time mothers with the following additional risk factors: Hispanic ethnicity, geographic isolation, history of depression, age under 21 and familial substance abuse. The project is part of a wider community effort to improve the health and well-being of Whatcom County children. NFP is currently serving 30 families and continues to enroll additional eligible clients through a strong referral network developed by strengthening existing ties with partners and establishing new partnerships with five community agencies that serve pregnant women. During this second year of the program, nurse home visitors will continue to support young families from pregnancy through the first 2 years of the child’s life and may build their caseload up to 47 families.
## WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Judy Ziels</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Thrive By Five Washington</td>
</tr>
<tr>
<td>Is this a New Contract?</td>
<td>Yes X No</td>
</tr>
<tr>
<td>Yes X No ___</td>
<td>If Amendment or Renewal, Original Contract #</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>Yes X No ___</td>
</tr>
<tr>
<td>County Grant Administrator</td>
<td>Judy Ziels</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>Yes ___ No ___</td>
</tr>
<tr>
<td>Is this the result of a RFP or Bid process?</td>
<td>Yes ___ No X ___</td>
</tr>
<tr>
<td>Is this service agreement excluded from E-Verify?</td>
<td>Yes X No ___</td>
</tr>
<tr>
<td>X Professional services agreement for certified/licensed professional</td>
<td></td>
</tr>
<tr>
<td>☐ Contract less than $100,000.</td>
<td>☐ Contract for Commercial off the shelf items (COTS)</td>
</tr>
<tr>
<td>☐ Contract work is all performed outside U.S.</td>
<td>☐ Work related subcontract less than $25,000.</td>
</tr>
<tr>
<td>☐ Interlocal Agreement (between Govt’s)</td>
<td>☐ Public Works - Local Agency/Federally Funded FHWA</td>
</tr>
</tbody>
</table>

### Contract Amount:

- **Sum of orig contract amnt and any prior amendments**: $176,799.00
- **This Amendment Amount**: $
- **Total Amended Amount**: $

### Summary of Scope:

Last year was the first year that Whatcom County received this grant to implement the Nurse-Family Partnership (NFP) program. The program utilizes a home visiting model to support low income first time mothers with the following additional risk factors: Hispanic ethnicity, geographic isolation, history of depression, age under 21 and familial substance abuse. The project is part of a wider community effort to improve the health and well-being of Whatcom County children.

### Term of Contract:

- **7/1/2013 – 6/30/2014**
- **Expiration Date: 6/30/2014**

### Contract Routing Steps & Signoff:

1. Prepared by: pj Date 7/8/13 [electronic]
2. Attorney reviewed: 1/17/13 Date 7/12/13 [electronic]
3. AS Finance reviewed: Ma Date 7/12/13 [electronic]
4. IT reviewed, if IT related Date 7/12/13 [electronic]
5. Corrections made: Date 7/13/13 [electronic] hard copy printed
6. Attorney signoff: Date
7. Contractor signed: Date
8. Submitted to Exec Office ✓ Date 7/15/13 [summary via electronic; hardcopies]
9. Council approved (if necessary) Date
10. Executive signed: Date
11. Contractor Original Returned to dept: Date
12. County Original to Council Date
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt, Director
RE: Thrive By Five Nurse Family Partnership Agreement
DATE: July 15, 2013

Enclosed are two (2) originals of the grant agreement between Thrive By Five Washington and Whatcom County for your review and signature.

- **Background and Purpose**
  Last year was the first year that Whatcom County received this grant to implement the Nurse-Family Partnership (NFP) program. The program utilizes a home visiting model to support low income first time mothers with the following additional risk factors: Hispanic ethnicity, geographic isolation, history of depression, age under 21 and familial substance abuse. The project is part of a wider community effort to improve the health and well-being of Whatcom County children. NFP is currently serving 30 families and continues to enroll additional eligible clients through a strong referral network developed by strengthening existing ties with partners and establishing new partnerships with five community agencies that serve pregnant women. During this second year of the program, nurse home visitors will continue to support young families from pregnancy through the first 2 years of the child’s life and may build their caseload up to 47 families.

- **Funding Amount and Source**
  This grant to Whatcom County is for $176,799 and is funded by the Early Learning Fund d/b/a Thrive By Five, which is an organization funded through a mix of State dollars and private funds from the Bill and Melinda Gates Foundation. The County match for this grant is from MSS DSHS (Medicaid) and Behavioral Health (1/10th of 1%) funds in the amount of $130,389.

  Council approval is required and an agenda bill is attached.

- **Differences from Previous Contract**
  This is a new agreement, but similar to the Thrive By Five grant we received last year.

  Please contact Judy Ziels at extension 32023, if you have any questions or concerns regarding the terms of this agreement.

Encl.
GRANT AGREEMENT

Washington Early Learning Fund, d/b/a Thrive by Five Washington ("Thrive") and Whatcom County Health Department ("Grantee") hereby enter into this Agreement as of July 1, 2013 (the "Effective Date").

**Grant Award Total:** $176,799.00
Includes:
- Service Funds: $175,000.00
- Travel Stipend: $1,799.00

**Grant ID:** 115  
**Grant Term:** 7/1/2013 to 6/30/2014  
**Tax ID Number:** 916001383  
**Project Lead:** Ms. Judy Ziels  
**Purpose:** Home Visiting Services Account  
**Federal Subrecipient:** No

1. **Grant Award and Term.** Thrive hereby awards a grant in the amount of $176,799.00 to Grantee for the grant purposes described more fully in the approved proposal and budget (referred to herein as the "Project"), and for which excerpts (Project Description, Logic Model, and Budget) have been incorporated as Schedule A. Grant funds may not be expended, loaned, pledged or transferred for reasons other than carrying out the Project. The term of this Agreement ("Term") begins on the Effective Date, and the Grantee agrees to not incur any expenses on the Project using Thrive funding prior to the Effective Date. The Term end date is met when all funds have been expended and Project requirements met, or earlier in the event of non-compliance.

2. **Travel Stipend Funds.** Included in the Grant Award Total is a Travel Stipend. Grantee agrees that funds awarded for the Travel Stipend will be used solely for travel costs associated with Grant Requirements outlined in Schedule B (1.d). Should any Travel Stipend funds be unexpended after all requirements have been met, Grantee may request in writing that Stipend funds be repurposed for the Project.

3. **Disbursement.** Thrive will disburse the funds to Grantee according to the terms provided in Schedule B, provided that Grantee performs the services and expends the awarded funds as described in the Project and in a timeframe that is aligned with the payment schedule in Schedule B. Payment is based on the assumption that project state and private revenue commitments to Thrive have been maintained, and that such funds are available to Thrive for disbursement to the Grantee. In the event that revenue commitments are not available to Thrive, Thrive reserves the right to amend the payment terms and the amount of the Grant Award Total. Thrive will monitor expenditures on a quarterly basis and reserves the right to amend the Payment Schedule if funds are not expended in accordance with the Project budget and in a timeframe that is aligned with the Payment Schedule.

4. **Grantee’s Tax Status.** Grantee represents that it is either 1) a tax-exempt organization described in Section 501(c)(3) of the Code or 2) a governmental entity described in Section 170(c)(1) of the Code, and that it is not either 1) a "private foundation" as defined in Section 509(a) of the
Code, or 2) a Type III supporting organization as described in Section 509(a)(3)(C) of the Code (other than a “functionally integrated” Type III supporting organization as defined in Section 4943(f)(5)(B) of the Code). If Grantee is described in Section 501(c)(3) of the Code, then Grantee has submitted to Thrive a determination letter of tax exemption issued by the Internal Revenue Service, and represents that such letter has not been revoked or modified. Grantee agrees to notify Thrive immediately of any changes in its tax status during the term of the grant.

5. **Use of Grant Funds.** Grantee agrees to use the grant funds solely for the Project in accordance with the proposal and budget submitted to Thrive, and that such funds will be used exclusively for charitable purposes as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”). Grantee agrees not to use any portion of the grant funds to participate in any political campaign on behalf of or in opposition to any candidate for public office, to make grants to individuals on a nonobjective basis, or for any non-charitable purpose. No portion of this grant is earmarked for use in carrying on propaganda or otherwise attempting to influence legislation. Grantee agrees not to use any portion of the grant funds to participate in any political campaign on behalf of or in opposition to any candidate for public office. Grantee will promptly return to Thrive any portion of grant funds unexpended or uncommitted at the end of the Grant Term, or used for purposes or in a manner than those described in the Project.

6. **Budget.** Grantee further agrees that funds will be expended as specifically itemized line by line in the Budget provided in Schedule A, and that transfers within lines of the budget in excess of 10% of the award amount will not be made unless approved by Thrive.

7. **Reporting and Other Grant Requirements.** Grantee agrees to submit program and expense reports, as well as all perform all other grant requirements outlined in Schedule B, on or before the dates indicated therein. Thrive reserves the right to aggregate, disaggregate, analyze, reproduce, and/or disseminate the data provided in Program Reports, Financial Activity Reports, or any other reports submitted to Thrive with respect to the Project. Use of any data by Thrive will be restricted exclusively to charitable purposes.

8. **Data Collection and Evaluation.** Thrive will conduct research and evaluation regarding the projects funded through its grants program. Grantee agrees to participate in these evaluation efforts and will fulfill the data collection and reporting requirements specified in Schedule C, Evaluation Requirements. It will be the obligation of Thrive representatives, contractors, and Grantee to provide protections and assurances regarding the confidentiality of data, samples of work (in any media format) and/or interview comments provided by participants. Grantee also agrees to provide Thrive with the results of any independent or self-directed evaluation or research undertaken with respect to the Project.

9. **Control of Grant Funds.** Grantee acknowledges and represents that it is accepting this grant for its own account and not as an agent for any other organization, and will exercise supervision and oversight over the use of all grant funds to ensure that the terms of this Agreement are met.

10. **Subcontracts.** In the event that any portion of the grant funds will be paid to subcontractors, contractors, or subgrantees to assist in the completion of the project without Thrive’s prior knowledge, Grantee agrees to notify Thrive in writing at GrantsManager@ThrivebyFivewa.org or other such person as designated by Thrive. Grantee acknowledges that Thrive: (a) does not
approve the selection of any of Grantee subcontractors, contractors, or subgrantees and (b) will not oversee the activities or use of grant funds by any such parties. Grantee remains responsible for ensuring that any subcontractors, contractors, or subgrantees uses grant funds consistently with the terms and conditions of this Grant Agreement and the Proposal. Neither Grantee nor Grantee subcontractors may state to investors, media or the general public that Thrive supports the activities of any subcontractor.

11. Recordkeeping. Grantee agrees to keep records in an easily read form sufficient to account for all receipts and expenditures of grant funds. These records of grant funds as well as supporting documentation will be archived by Grantee’s office for at least six (6) years after the end of the Grant Term. Grantee agrees to make such books, records, and supporting documentation available to Thrive for inspection, if requested.

12. Confidentiality. Grantee will hold in strictest confidence any non-public information that Thrive designates as being confidential during the term of this Agreement and for six (6) years thereafter. Grantee will not disclose confidential information to any third party, and will not use any confidential information other than as necessary for Grantee to perform its obligations under this Agreement. This Section will not apply to information (a) that was known to Grantee before Thrive’s disclosure, or information that becomes publicly available through no fault of Grantee; or (b) that Grantee can demonstrate was independently developed or received by Grantee with no breach of any duty owed by a third party to Thrive independent of this Agreement. Grantee may disclose confidential information as required by applicable law, legal process or any order of a court or other governmental authority, but Grantee will give Thrive notice reasonably sufficient to allow Thrive to have an opportunity to object to such disclosure in advance, unless providing such notice would violate applicable law.

13. Intellectual Property. Grantee shall retain all copyrights and other intellectual property rights to written work produced as a result of this award, including but not limited to work product listed in Schedule B. Grantee grants to Thrive a nonexclusive, irrevocable, perpetual, and royalty-free license to access, reproduce, publish, copy, alter or otherwise use such written work, for any purpose consistent with Thrive’s continuing status as an organization described in Section 501(c)(3) of the Code. Project materials may be reproduced (but not morphed, amended, revised, or redesigned) by any other party, on a worldwide, non-exclusive basis and without fee in connection with their own educational or program purposes, but may not be used in connection with sales or distribution for profit. The owner must approve any use of project materials not specifically permitted under this provision, in advance and in writing. As appropriate, all materials shall contain an attribution of ownership.

14. Third-Party Rights. Grantee warrants that written work product produced under the terms of this Agreement will not infringe, misappropriate, or violate the rights of any third party, or incorporate or be derived from the intellectual property of any third party, without Thrive’s prior written consent.

15. Quality of Work and Non-Compliance. Quality of work and compliance with the terms outlined in the Agreement will be monitored throughout the course of the funding period using the methods described in Schedule B. If Thrive is (a) not satisfied, in its sole discretion, with the quality of the Grantee’s work or (b) encounters non-compliance with the terms outlined in the Agreement on the part of the Grantee, Thrive will make a reasonable attempt to assist the
Grantee with technical assistance and quality assurance activities to resolve issues that impede quality and compliance. In the event that compliance issues cannot be resolved, the Grantee will be engaged in a probationary process as described in Schedule D.

16. **Early Termination.** Thrive may terminate the contract prior to the end of the Grant Term if satisfactory compliance is not reached after reasonable efforts have been made to restore compliance, as outlined in Schedule D. In the case of Early Termination, Grantee is required to immediately repay the full amount of any grant funds which were unspent as of the date of the notice of termination, and Thrive shall have no further obligation to distribute any unpaid portion of the Grant to Grantee.

17. **Change in Key Personnel.** The success of the approved Project is largely contingent on the Project Lead(s) identified in the proposal. Should there be any material change in job description, level of authority, or employment status of Project Lead(s) during the grant term, Thrive requires that Grantee notify Thrive staff within 30 days of the change.

18. **Nondiscrimination.** Contractor must maintain non-discriminatory policies with regard to race, color, age, gender, marital status, sexual orientation, political ideology, age, creed, religion, heritage, ancestry, national origin or sensory, mental, or physical ability throughout the Term.

19. **Indemnification.** As a condition to this Agreement, Grantee agrees to indemnify, defend and hold Thrive harmless and against any and all liability, loss, and expense (including reasonable attorneys' fees) or claims for injury or damages arising out or resulting from, or that are alleged to arise out of or result from, negligent actions or omissions by Grantee or any of the Grantee’s officers, agents, employees, subcontractors, contractors, or subgrantees with respect to the Agreement. Further, no provision of this Agreement shall inure in any way to the benefit of any third-party so as to constitute such party as a third-party beneficiary of the Agreement or any one or more of the terms hereof or otherwise give rise to any cause of action in any person or entity not a party hereto.

20. **Grant Announcements; Public Reports and Use of Thrive Name and Logo.** Thrive will include information on this grant in Thrive’s periodic public reports and may make information about this grant public at any time on its web page and as part of press releases, public reports, speeches, newsletters, and other public documents. If Grantee wishes to issue a press release or report announcing this grant, or otherwise use Thrive's name or logo, please contact GrantsManager@thrivewa.org at least two weeks before the desired announcement or publication date. Grantee agrees to obtain advance approval from Thrive of the press release and the date of release, or of any other use of Thrive's name or logo. Thrive requests an opportunity to review and comment on subsequent press releases or reports that are directly related to the grant.

21. **Insurance.** Grantee will obtain, and provide proof of, insurance coverage as set out in this section. The intent of the required insurance is to protect Thrive should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of Grantee, or agents thereof, in carrying out the Project. Grantee will obtain insurance coverage, which will be maintained in full force and effect during the Grant Term, as follows:
a. **Commercial General Liability Insurance.** Obtain a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of Project-related activities but no less than $1,000,000 per occurrence.

b. **Automobile Liability.** In the event that Project-related activities involve the use of vehicles, whether or not owned by Grantee, automobile liability insurance will be required. The minimum limit for automobile liability is $1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage. The parties agree and acknowledge that a non-owned and hired policy is acceptable as the Grantee has no vehicles in its possession.

c. **Maintenance of Insurance.** Grantee will maintain the coverage described in Section 21 (a) and (b) above through either (i) its participation in a self-insurance program established pursuant to RCW 48.62, or (ii) an insurance company/ies authorized to do business within the State of Washington. All policies must be primary to any other valid and collectible insurance. Grantee will instruct the insurers or self-insurance program to give Thrive thirty (30) calendar days’ advance notice of any insurance cancellation.

d. **Certificate of Insurance.** Grantee will submit to Thrive within forty five (45) calendar days of the Effective Date, a certificate of insurance that reflects the coverage and limits described in Section 21 (a) and (b). Grantee will provide a renewal certificate as necessary to document compliance with this Section 21 during the Grant Period.

e. **Industrial Insurance Coverage.** To the extent required by law, Grantee will comply with the provisions of Title 51 RCW, Industrial Insurance.

22. **Compliance with Laws.** Grantee will comply with all applicable federal, state, and local laws, rules, and regulations (including, without limitation, the Americans with Disabilities Act (ADA) of 1990, codified at 28 CFR Part 35, nondiscrimination laws and regulations, and licensing, accreditation and registration requirements and standards) in carrying out the Project.

23. **Conflict of Interest.** Notwithstanding any determination by the Executive Ethics Board or other tribunal, Thrive may, in its sole discretion, by written notice to Grantee terminate this Grant Agreement if it is found after due notice and examination by Thrive that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW or any similar statute involving Grantee and activities performed pursuant to the Agreement.

24. **Disputes.** Except as otherwise provided in this Grant Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties will select a dispute resolution team to resolve the dispute. The team will consist of a representative appointed by Thrive, a representative appointed by Grantee and a third party agreed to be appointed by both parties. The team will attempt, by majority vote, to resolve the dispute. This dispute process will precede any action in a judicial or quasi-judicial tribunal. In the event of a lawsuit involving this Grant Agreement, venue will be proper only in King County, Washington. Grantee acknowledges the jurisdiction of the courts of the State of Washington in this matter.
25. **Waiver of Default.** Waiver of any default shall not be deemed to be a waiver of any subsequent default by Thrive. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by an authorized representative of Thrive and attached to the original Agreement.

26. **Amendment; Assignment.** This Grant Agreement may be amended or modified only by a mutual written agreement of the parties. Neither this Grant Agreement, nor any claim arising under this Grant Agreement, may be transferred or assigned by Thrive or Grantee without prior written consent of the other party.

27. **Entire Agreement; Governing Law; Severability.** This Grant Agreement constitutes the entire agreement and supersedes any prior oral or written agreements or communications between the parties regarding its subject matter. The laws of Washington State shall govern this Grant Agreement. The provisions of this Grant Agreement are severable so that if any term or provision is found for any reason to be invalid, illegal, or unenforceable, such finding shall not affect the validity, construction, or enforceability of any remaining term or provision.

28. **Grant Review.** Grantee will permit representatives of Thrive to visit Grantee’s premises and review Grantee’s activities with respect to the Project, and will permit Thrive, at its own expense, to conduct an independent financial and/or programmatic audit of the expenditure of this grant.

29. **Subgrants and Subcontracts.** Your organization has been selected to participate in the Project through the formal HVSA review process. You may not make any statement or otherwise imply to donors, investors, media, or the general public that you are a direct grantee of the Bill & Melinda Gates Foundation. You may state that Thrive by Five Washington is the Bill & Melinda Gates Foundation’s grantee and that you are a subgrantee of Washington Early Learning Fund for the Project.

30. **Notices.** All legal notices under this Agreement shall be addressed as follows:

   Thrive: Grants Manager
   Thrive by Five Washington
   1218 Third Avenue, Suite 800
   Seattle, WA 98101

   Grantee: Ms. Regina Delahunt, Director
   Whatcom County Health Department
   509 Girard Street
   Bellingham, WA 98225
This Agreement must be signed by an authorized officer of Grantee prior to issuance of the grant funds. Grantee may keep a copy of this Grant Agreement as signed for its records.

WASHINGTON EARLY LEARNING FUND
d/b/a THRIVE BY FIVE WASHINGTON

By: Nina Auerbach,
Title: President and CEO
Date:

Whatcom County Health Department

By: Ms. Regina Delahunt
Title: Director
Date: 7/10/13

7
PROGRAM APPROVAL

Astrid Newell, CH Manager

Date 7/9/13

WHATCOM COUNTY

JACK LOUWS
County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM )

On this ___________ day of ________________, 20__, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for
the State of Washington,
residing at Bellingham.

My Commission expires: ____________

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

Date 9/13/13
SCHEDULE A: PROJECT OVERVIEW

1. Project Description

The Whatcom County Health Department is implementing the Nurse-Family Partnership (NFP) home visiting model as part of the Skagit Nurse-Family Partnership team. NFP is a relationship-based model that uses the Partners in Parenting Education (PIPE) curriculum and the standardized NFP Visit-to-Visit Guidelines. Our target population is low-income first time mothers with any of the following additional risk factors: Hispanic ethnicity; geographic isolation; age 21 and under; history of depression or familial substance abuse. Our proposed outcomes are reduction in reported suspected maltreatment of children; increased parental support for children's learning and development; improved number of completed service referrals for families; and, increase in maternal education and employment activities. Two nurses (1.225 FTE funded by HVSA) are implementing NFP locally and receiving reflective and clinical supervision from the Skagit NFP Supervisor. Our Nurse Home Visitors also participate in biweekly case conferences and biweekly team meetings. Ongoing outreach and recruitment for enrollees is conducted with established community partners, and special effort is conducted to build partnerships with community-based organizations that serve are targeted populations. NFP is augmented with the inclusion of an Infant Mental Health Specialist in team case conferences. Families receive weekly or biweekly visits (per model criteria) from enrollment during pregnancy until the child is two years of age. Nurse Home Visitors continue to build their caseload and have the potential to serve up to 47 families, 30 of which are funded by HVSA.
### 2. Logic Model*

#### HVSA Logic Model

**Organization Name:** Whatcom County Health Department  
**Home Visiting Model:** Nurse-Family Partnership  
**Date:** July 1, 2013

<table>
<thead>
<tr>
<th><strong>RESOURCES</strong></th>
<th><strong>ACTIVITIES</strong></th>
<th><strong>OUTPUTS</strong></th>
<th><strong>FIDELITY MEASURES (PROCESS INDICATORS)</strong></th>
<th><strong>PROGRAM INDICATORS (CONSTRUCTS)</strong></th>
<th><strong>OUTCOMES (BENCHMARKS)</strong></th>
</tr>
</thead>
</table>
| **Target Population:**  
low income, first-time pregnant women  
including but not limited to: Hispanic women;  
women 21 and younger;  
women living in rural, isolated communities;  
and, women affected by familial substance abuse.  
**Target Geographic Area:** Whatcom County  
**Staffing:**  
1.225 NHVs  
0.25 NFP Supervisor  
**Home Visiting Curriculum Used:**  
NFP visit guidelines  
PIPE parenting education  
**Funding Sources:**  
HVSA  
Local mental health tax dollars  
County general funds  
Medicaid reimbursement for MSS services | **1: Staffing**  
1.1: Maintain existing staff  
1.2: Maintain contract for NFP Supervision | **1.1:** Maintain existing staff:  
1.225 FTE Nurse Home Visitor (NHWs)  
**1.2:** Maintain contracted relationship with Skagit County Health Department for Nurse Supervision | **Measure 1**  
Nurse home visitors and supervisors are registered nurses with a minimum of a Bachelor's degree in nursing.  
**Measure 2**  
Nurse home visitors and nurse supervisors complete core educational sessions required by the Nurse-Family Partnership National Service Office and deliver the intervention with fidelity to the NFP Model.  
**Measure 3**  
Client meets low-income criteria at intake as defined by program.  
**Measure 4**  
Client is enrolled in the program early in her pregnancy and receives her first home visit by no later than the end of the 28th week of pregnancy. |  
Do not populate.  
Do not populate.  
Do not populate.  
Do not populate.
3. Outreach/Recruitment
- 3.1: New caseloads will be built over time
- 3.2: Maintain outreach and referral plan to reach target population and maintain caseload
- 3.3: Monitor effectiveness of outreach plan

4: Home Visits
- 4.1: Provide home visits for first time, low-income pregnant women, mothers and infants
- 4.2: New clients will be enrolled before 28 weeks of pregnancy and receive visits according to NFP guidelines
- 4.3: Content of home visits will be aligned with NFP guidelines

5: Supervision
- 5.1: Staff who provide home visits will receive reflective supervision
- 5.2: All staff will participate in reflective case conferences

3.1: New NHVs will enroll up to 4 clients per month
3.2: Program Supervisor will have a written plan for cultivating relationships with referral sources and community partners including in-person contacts, follow-up visits and/or letters and/or calls, and community presentations.
3.3: Supervisor will use ETO data on enrollment by referral source to monitor effectiveness and adapt plan.

4.1: 30 clients will each receive 1-3 home visits per month according to NFP standard and/or flexible visit guidelines
4.2: 30 clients will be enrolled by 28 weeks of pregnancy 33% will be enrolled by 16 weeks of pregnancy

The quarterly average completed to expected visit ratio will be:
- Pregnancy completers: 80-90%
- Infant completers: 65%
- Toddler completers: 65%

4.3: The quarterly average Maternal Role Domain will be:
- Pregnancy: 23-25%
- Infancy: 45-50%
- Toddler: 40-45%

5.1: Supervisor will provide individual, 60' reflective supervision sessions for each NHV 3 times per month
5.2 Reflective case conferences are held twice a month for 1.5 -2

Measure 5
Client is visited throughout her pregnancy and the first two years of her child's life in accordance with the current Nurse-Family Partnership Guideline.

Measure 6
A full-time nurse home visitor carries a caseload of no more than 25 active clients.

Measure 7
A full-time nurse supervisor provides supervision to no more than eight individual nurse home visitors.

Measure 8
Nurse home visitors and nurse supervisors collect data as specified by the Nurse-Family Partnership National Service Office and use NFP reports to guide their practice, assess and guide program implementation, inform clinical supervision, enhance program quality and demonstrate program fidelity.
5: Continuous Quality Improvement
6.1: Supervisors and nurse home visitors will review and utilize their data
6.2: Data is used for quality and fidelity monitoring and improvement.

6.1 Supervisors will review ETO quarterly reports with NHVs and SNC and use this data to create the Annual Plan.
6.2 Supervisor and SNC review Annual Plan quarterly.

*The Logic Model may be revised throughout the Continuous Quality Improvement Process*
## 3. Budget

### Whatcom County Health Department

**HOME VISITING MODEL: Nurse-Family Partnership**

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Description</th>
<th>Amount</th>
<th>Comments/Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Personnel</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nurse Home Visitor 1 (EA)</td>
<td>225 FTE x $67515.73 annual salary</td>
<td>$15,213.54</td>
<td></td>
</tr>
<tr>
<td>Nurse Home Visitor 2 (ES)</td>
<td>1.0 FTE x $5671.43 annual salary</td>
<td>$5,671.43</td>
<td></td>
</tr>
<tr>
<td>Benefits</td>
<td></td>
<td></td>
<td>40% rate for benefits</td>
</tr>
</tbody>
</table>

**B. Staff Recruitment, Training, Retention, etc.**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>NFP Annual National Symposium</td>
<td>$1,200.00</td>
<td>Administrator for 4 day training (Flight @ $400, $165/night x 4 nights, $140 ground transport and meals).</td>
</tr>
<tr>
<td>NFP Annual Washington State Meeting</td>
<td>$400.00</td>
<td>2 FTE for 3 day meeting</td>
</tr>
<tr>
<td>CE for Nurse Home Visitors</td>
<td>$1,500.00</td>
<td>Cost of registration and hotel for 2 FTE (Training plan includes lactation update, motivational interviewing and ACEs)</td>
</tr>
</tbody>
</table>

**C. Travel**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly car costs</td>
<td>$6,000.00</td>
<td>Two fleet cars with fuel and parking fees total approx $500 per month</td>
</tr>
</tbody>
</table>

**D. Equipment (Purchase, rent, maintenance)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cell phone monthly costs</td>
<td>$840.00</td>
<td>Approximately $75/month in cell phone costs</td>
</tr>
</tbody>
</table>

**E. Supplies (Postage, Printing, Publication, etc.)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community outreach events</td>
<td>$400.00</td>
<td>4 planned community outreach events (refreshments $75 each event, 6 supplies $25 each event)</td>
</tr>
<tr>
<td>Printing</td>
<td>$500.00</td>
<td>printing of local brochures and flyers for outreach</td>
</tr>
<tr>
<td>Client program materials</td>
<td>$1,250.00</td>
<td>$40 annual client incentives and materials for 31 clients</td>
</tr>
<tr>
<td>Office supplies/postage</td>
<td>$500.00</td>
<td>Postage for client correspondence, general office materials for 2 FTE</td>
</tr>
<tr>
<td>Medical and program supplies</td>
<td>$900.00</td>
<td>Childbirth ed DVD in English and Spanish at $450 per CD</td>
</tr>
</tbody>
</table>

**F. Occupancy (Rent, utilities, etc.)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$0.00</td>
<td></td>
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</table>

**G. Contracted/Professional Services (Subcontracts, Consulting, Printing, etc.)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>NFP Nurse Supervisor provided by Skagit County Health Dept</td>
<td>$25,606.05</td>
<td>Service provided by inter-local agreement between agencies</td>
</tr>
<tr>
<td>20% of NFP National Service Office Annual Fee</td>
<td>$2,800.00</td>
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**H. Evaluation Stipend (for Cohorts 3 and 5 ONLY)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$600.00</td>
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</table>

**I. Travel Stipend (for Thrive mandatory trainings)**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$1,799.00</td>
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**J. Indirect Charges if not included above**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
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<tbody>
<tr>
<td></td>
<td>$32,565.00</td>
<td>Federally approved indirect rate 24.49% less limit of grant award</td>
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</tbody>
</table>

**K. TOTAL**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$175,799.00</td>
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</tr>
</tbody>
</table>
SCHEDULE B: GRANTEE REQUIREMENTS AND PAYMENT SCHEDULE

1. Grantee Requirements

   a. **Individualized Assessments:** Grantee will administer individualized assessments of participant families, and services will be provided in accordance with those individual assessments.

   b. **Voluntary Services:** Services will be provided to clients only on a voluntary basis.

   c. **Priority Participants:** Priority will be given to serve eligible participants who:

      - Have low incomes;
      - Are pregnant women who are under 21;
      - Have a history of child abuse and neglect or have had interactions with child welfare services;
      - Have a history of substance abuse or need substance abuse treatment;
      - Are users of tobacco products in the home;
      - Have, or have children with, low student achievement;
      - Have children with developmental delays or disabilities;
      - And/or are in families that include individuals who are serving or have formerly served in the armed forces, including such families that have members of the armed forces who have multiple deployments outside of the United States.

   d. **Capacity Assessment:** Grantee will develop and submit a Capacity Assessment detailing community and organizational readiness and capacity for implementation of home visiting services with fidelity (prior to the contract period). Materials provided in the Capacity Assessment will be used to inform the Agreement.

   e. **Logic Model:** Grantee will develop and continuously refine a Logic Model to guide program implementation.

   f. **Implementation Improvement Plan:** Grantee will collaborate with Thrive and Thrive Consultants to develop, submit, refine and utilize for reporting and Continuous Quality Improvement (CQI) an Implementation Improvement Plan.

   g. **Annual Orientation Webinar:** Grantee will participate in an annual orientation webinar providing any updates on requirements associated with HVSA funding. The webinar will be held on July 15, 2013.

   h. **HVSA Trainings:** Grantee will participate in two full-day trainings.

      - HVSA Training 1: November 6, 2013
      - HVSA Training 2: March 13, 2014

   i. **Technical Assistance Coaching Calls:** Grantee will participate in monthly 1.5 hour Technical Assistance calls with Thrive staff and Thrive Consultants for Continuous Quality Improvement.
j. **Site Visits:** Grantee will cooperate with up to eight (8) scheduled site visits conducted for grant compliance, organizational due diligence, HVSA evaluation, quality implementation technical assistance, and continuous quality improvement.

k. **Quarterly Program Reports:** Grantee will submit four (4) program reports online no later than the dates outlined below in the Payment Schedule. Program reports will include, but are not limited to, the following information:

- Participant Demographics
- Implementation Progress on the Logic Model
- Implementation Reflection
- An Updated Logic Model
- Select Fidelity Measures
- Select Constructs and Benchmarks
- Progress on Implementation Improvement Plans

Thrive will notify the Grantee in writing or orally within thirty (30) working days of errors or omissions in the Program Reports and any corrections that need to be made by the Grantee and the expected timeline to submit the correction to Thrive.

l. **Monthly Enrollment Numbers:** Grantee will submit monthly Enrollment Numbers Reports online no later than the dates outlined below in the Payment Schedule. Monthly Enrollment Reports will include the number of children, parents/caregivers, and families enrolled for the previously completed month.

m. **Quarterly Financial Activity Reports:** Grantee will submit four (4) Financial Activity Reports online no later than the dates outlined below in the Payment Schedule. Expense reports will include, but are not limited to, cumulative expenditures incurred to date compared to line items identified in the budget in Schedule A, section 3.

n. **Standard Line Item Reports:** Grantee will submit monthly Standard Line Item Reports online no later than the dates outlined below in the Payment Schedule. Standard Line Item Reports will include monthly expenditures for the Personnel and Occupancy budget line items for the previously completed month.

o. **Additional Requirements:** Grantee will maintain and make available to Thrive, if requested, documentation demonstrating accomplishments of the Grant Agreement. Such documentation may include, but is not limited to:

- Services Provided, Service Dates, and Number of Service Hours
- Data Collection and Assessments by Participants
- Completed Evaluation Tools
- Attendance Sheets
- Service Logs
- Demographic Information of Participants
2. Payment Schedule

The Payment Schedule below is based on the assumption that state and private revenue commitments to Thrive have been maintained, and that such funds are available to Thrive for disbursement to the Grantee. In the event that revenue commitments are not available to Thrive, Thrive reserves the right to amend the payment terms and the amount of the Grant Award Total.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Due Date</th>
<th>Reporting Period</th>
<th>Payment Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Assistance Coaching Calls</td>
<td>Monthly</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Site Visits</td>
<td>TBD</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>HVSA Orientation Webinar</td>
<td>July 15, 2013</td>
<td>NA</td>
<td>August 2013</td>
<td>$44,199.75</td>
</tr>
<tr>
<td>Signed Grant Agreement</td>
<td>August 1, 2013</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HVSA Training 1</td>
<td>November 6, 2013</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation in HVSA Training 2</td>
<td>March 13, 2014</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Program Report and Expense Report #4</td>
<td>July 31, 2014</td>
<td>April 1, 2014-June 30, 2014</td>
<td></td>
<td>TOTAL</td>
</tr>
</tbody>
</table>
SCHEDULE C: EVALUATION REQUIREMENTS

1. **Evaluation Design.** Thrive is in the process of designing a new evaluation framework. Implementation of this framework will occur following the selection of an evaluation group responsible for carrying out the new evaluation framework. Selection of this group is intended to be completed by September 2013. The design of the new evaluation framework is guided by the following objectives:

   a. Increase the capacity of the HVSA Grantees to effectively use data to guide program CQI
   b. Inform relevant HVSA evaluation efforts underway, including, but not limited to Data
      Benchmarks, the State CQI plan, reporting to private funders, and Thrives strategic
      measures reporting
   c. Develop data measures to sustain and build the capacity of the HVSA that is aligned with
      advancing the Washington state *Early Learning Plan*

2. **Data Transition and Protections.** The new evaluation framework will be phased in over time, gradually replacing the existing framework. During this transition:

   a. Data safeguards, protocols, and security measures will remain in place to ensure data
      collected from Grantee continues to be confidential, de-identified
   b. Transfer and use of data will be in compliance with all HIPAA requirements, as well as
      meet the contractual requirements of program models and individual Grantees

   In addition, de-identified client data will be retained for 6 years after completion of this Agreement
   and then destroyed.

3. **Evaluation Activities.** In addition to participating in activities that support the evaluation
   framework, Grantees will continue to participate in evaluation activities for all families served
   under through HVSA program funds. These requirements include, but are not limited to:

   a. Executing a data-sharing agreement with the evaluation group.
   b. Meeting data collection pass-through requirements described in Federally approved
      Washington State Data Benchmarks Plan; including but not limited to:

      • Participating in data collection and training activities
      • Collecting specified data elements
      • Implementing data collection processes and reporting

4. **Timeline:** It is anticipated that Grantees will begin working with the newly designated
   evaluation group in the last quarter of 2013. In the meantime, Thrive may have particular
   requests of Grantees that are consistent with objectives stated in Section 2 above. Initial activities
   carried out by the evaluation group will include a meeting with Thrive and Grantees to discuss
   issues related to data security and storage, use of data, and data sharing agreements, and existing
   evaluation capacity.

5. **Revisions to Schedule C:** When a new evaluation design has been developed, Thrive will
   disseminate an amendment to the Schedule C defined herein providing a clear description of
   revised evaluation requirements. The amendment must be executed by both parties.
SCHEDULE D: PROBATION PROCEDURES FOR NON-COMPLIANCE

In the event that the Grantee is deemed “non-compliant,” Thrive will follow the procedures outlined below:

1. **Notice of Probation:** Thrive will issue a written Notice of Probation (Notice) to the Grantee. Probationary status means that Grantee is vulnerable to Suspension of Payment if corrective action is not taken within the specific timeframe outlined in the Notice. Such notification will be sent a minimum of thirty (30) days prior to the effective date. The Notice of Probation will:
   
   a. Cite and describe the specific issue(s) of non-compliance.
   b. Describe a protocol for corrective action.
   c. Outline a required timeline for corrective action.

   In order to regain active Grantee status, the Grantee must correct the non-compliance issue to the satisfaction of HVSA within the timeframe stipulated in the Notice (or an amended timeframe as agreed upon between Grantee and Thrive).

2. **Suspension of Payment:** If Grantee fails to satisfactorily correct the non-compliance issues cited in the Notice within timeframe cited in the Notice, Thrive may suspend payment of funds until satisfactory contract compliance is met. Grantee will be informed in writing a minimum of thirty (30) days prior to the effective date of such action.

3. **Suspension of Payment Appeal:** Grantee is entitled to appeal Suspension of Payment within ten (10) days of receiving the suspension notice. HVSA will review the case within fifteen (15) days of receipt of the appeal and schedule a date to hear the appeal within thirty (30) days of receipt of the notice of appeal. HVSA will notify the Grantee in writing of the appeal decision within ten (10) days of the appeal hearing.

4. **Early Termination:** Repeated probation or Suspension of Payment may result in **Early Termination** (Grant Agreement, clause 15).
**TITLE OF DOCUMENT:** Bid 13-50 Construction of the Hovander Trail

**ATTACHMENTS:** Memos from Finance and Parks

**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.)

The Parks & Recreation Department is requesting approval to award the bid and enter into a contract for the construction of the Hovander Trail. Eleven bids were received and Parks would like to award to the low bidder, Whatcom Builders in the amount of $115,444.00. This is a planned project and funds were approved in the current budget using REET II funding.
DATE: 10 July 2013

TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Award of Bid 13-50 Construction of Hovander Trail

- Background & Purpose
Bids were advertised for the construction of the Hovander Trail. Eleven bids were received on Tuesday July 2 and are noted below:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Base Bid</th>
<th>Sales Tax</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whatcom Builders</td>
<td>106,400.00</td>
<td>9,044.00</td>
<td>115,444.00</td>
</tr>
<tr>
<td>P&amp;P Excavating</td>
<td>114,950.33</td>
<td>9,770.78</td>
<td>124,721.11</td>
</tr>
<tr>
<td>Matia Contractors</td>
<td>127,585.00</td>
<td>10,844.73</td>
<td>138,429.73</td>
</tr>
<tr>
<td>Mark White Enterprise</td>
<td>132,544.10</td>
<td>11,266.25</td>
<td>143,810.40</td>
</tr>
<tr>
<td>Faber Construction</td>
<td>144,007.04</td>
<td>12,528.61</td>
<td>156,535.65</td>
</tr>
<tr>
<td>Dirt Works Bellingham</td>
<td>146,335.00</td>
<td>12,438.48</td>
<td>158,773.48</td>
</tr>
<tr>
<td>Iverson Earthworks</td>
<td>149,188.00</td>
<td>12,680.98</td>
<td>161,868.98</td>
</tr>
<tr>
<td>Razz Construction</td>
<td>170,925.00</td>
<td>14,528.63</td>
<td>185,453.63</td>
</tr>
<tr>
<td>HB Hansen</td>
<td>173,229.04</td>
<td>14,724.47</td>
<td>187,953.51</td>
</tr>
<tr>
<td>Summit Construction</td>
<td>191,350.00</td>
<td>16,264.75</td>
<td>207,614.75</td>
</tr>
<tr>
<td>Williamson Construction</td>
<td>202,461.20</td>
<td>17,209.20</td>
<td>219,670.40</td>
</tr>
</tbody>
</table>

The Park Department is requesting approval to award the bid and to enter into a contract with the low bidder, Whatcom Builders for a total amount of $115,444.00.

- Funding
This is a planned project and funds were approved in the current budget using REET II funding, (Ordinance 2012-048).

I concur with this recommendation.

Approved as Recommended: ____________________________

AS Finance Manager

County Executive

Date of Council Action ____________________________
MEMORANDUM

TO: Brad Bennett, Finance Manager
FROM: Michael McFarlane, Director
DATE: July 8, 2013
RE: Recommend to Accept Bid Award #13-50, Construction of Hovander Trail

On Tuesday, July 2, 2013 eleven bids were received in response to Whatcom County Bid #13-50, Construction of Hovander Trail.

Whatcom Builders, Inc. met all the required specifications for this work. I am recommending that the bid totaling $115,144.00 which includes 8.5% Washington State Sales Tax, submitted by Whatcom Builders, Inc. be accepted.

Development of the Park is being funded with REET II funds approved by the Council on January 29, 2013 (Ordinance 2013-004)

If you need any additional information, please contact Rod Lamb at extension 31727.
### TITLE OF DOCUMENT: Amendment No. 1 - Lake Whatcom Reconveyance Interagency Agreement (No. WC Contract Number 200911002/IAA 10-166) between Whatcom County and the State of Washington Department of Natural Resources

### ATTACHMENTS: Amendment No. 1 to the Interagency Agreement

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 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.)

Request approval for the Executive to enter into an amendment to the interagency agreement increasing the amount of payment for services to the Department of Natural Resources by $40,000 for survey work and closing costs related to the Lake Whatcom Reconveyance. This increases the total contract amount in the interagency agreement to $331,000.

### COMMITTEE ACTION:

### COUNCIL ACTION:

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td>200911002</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

TO: Jack Louws, County Executive
FROM: Michael McFarlane, Director
RE: Amendment No.1 Lake Whatcom Reconveyance Interagency Agreement
DATE: July 11, 2013

Enclosed are two (2) originals of an amendment to the *Lake Whatcom Reconveyance Interagency Agreement (WC Contract #200911002/IAA 1C-166)* between Whatcom County and the State of Washington Department of Natural Resources for your review and signature.

- **Background and Purpose**
  In November of 2008, Whatcom County entered into an interagency agreement with the Department of Natural Resources to pay the costs to transfer approximately 8,000 acres of State trust lands in the Lake Whatcom Landscape Area. The costs for this transfer were estimated by the State not to exceed $291,000. The final configuration of the transfer was completed in early 2013 and the State now estimates that an additional $30,000 will be required to complete a land survey and an additional $10,000 is required to complete closing. These cost include the assignments of leases and easements. The amendment increases the cost of the project by $40,000 for a total cost of $331,000.

- **Funding Amount and Source**
  This project is eligible for funding through Conservation Futures.

- **Differences from Previous Contract**
  This increases the cost of the project by $40,000 for a total cost of $331,000. All other terms and conditions of the interagency agreement remain in effect.

Please contact Michael McFarlane at extension 32072, if you have any questions or concerns regarding the terms of this agreement.

Encl.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Parks &amp; Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Michael McFarlane</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>State of Washington Department of Natural Resources</td>
</tr>
</tbody>
</table>

Is this a New Contract? Yes ___ No X ___ Is this a grant agreement? Yes ___ No X ___  
If yes, grantor agency contract number(s) ____________  
CFDA number ____________  
If this contract grant funded? Yes ___ No X ___  
If yes, associated Whatcom County grant contract number(s) ____________  
Is this contract the result of a RFP or Bid process? Yes ___ No X ___  
If yes, RFP and Bid number(s) ____________  
Contract Cost Center: ____________  
Is this contract excluded from E-Verify? No ___ Yes X ___  
If no, include Attachment D Contractor Declaration Form  
If yes, indicate qualified exclusion(s) below:  
X Contract less than $100,000.  
X Work is for less than 120 days  
X Interlocal Agreement (between Govt.)  
Professional services agreement for certified/licensed professional  
Contract for Commercial off the shelf items (COTS)  
Public Works Dept. - Local Agency/Federally Funded FHWA  
Contract Amount: (sum of orig. contract amt. and any prior amendments) $ ____________  
This Amendment Amount: $ ____________  
Total Amended Amount: $ ____________  
If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.  
Scope of Services: [Insert language from contract (Exhibit A) or summarize; expand space as necessary]  
Increase the payment for work performed by DNR on the Lake Whatcom Reconveyance by $40,000 to complete land survey and closing costs. All other terms of interagency agreement IAA 10-166 remain the same.  

Term of Contract: Upon completion Expiration Date: Upon completion  

Contract Routing Steps & Signoff: [sign or initial]  
[Indicate date transmitted]  
1. Prepared by: MGM  
2. Attorney reviewed:  
3. AS Finance reviewed:  
4. IT reviewed if IT related:  
5. Corrections made:  
6. Attorney signoff:  
7. Contractor signed:  
8. Submitted to Exec Office:  
9. Council approved (if necessary):  
10. Executive signed:  
11. Contractor Original Returned to dept:  
12. County Original to Council:  
Date 7/11/13 [electronic]  
Date 7/15/13 [electronic]  
Date ____________ [electronic]  
Date ____________ [electronic]  
Date ____________ [electronic]  
[summary via electronic; hardcopies]  
Date ____________  
Date ____________  
Date ____________  
Date ____________  
Date ____________  
Date ____________  
[This form may need to expand to more than one page]
This Amendment is to the Interagency Agreement between Whatcom County and the State of Washington Department of Natural Resources dated November 16, 2009 and designated “Whatcom County Contract No. 200911002” and “IAA 10-166”. In consideration of the mutual benefits to be derived, the parties agree to the following:

Page 1, #3 Payment; the payment for work performed by DNR is increased by $40,000 for a total amount not to exceed $331,000 to cover increased costs for the land survey and closing.

Unless specifically amended by this agreement, all other terms and conditions of the original contract shall remain in full force and effect.

The date of this amendment shall be the date on which the last party executes this amendment.

In witness whereof, Whatcom County and State of Washington Department of Natural Resources have executed this Amendment on the date and year below written.

DATED this ______ day of ____________________, 2013.

Whatcom County

Dated: ________________, 2013

By: Jack Louws
Title: County Executive
Address: Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

Approved as to form:

_____________________________
Elizabeth Galery
Deputy Prosecuting Attorney

State of Washington
Department of Natural Resources

Dated: ________________, 2013

By: Peter Goldmark
Title: Commissioner of Public Lands
Address: Washington State Department of Natural Resources
1111 Washington St. SE
Olympia WA 98504

Approved as to form:

Christa Thompson
Assistant Attorney General
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td>7/15/13</td>
<td></td>
<td>7/23/2013</td>
<td>Finance</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>7/15/13</td>
<td></td>
<td>7/23/2013</td>
<td>Council</td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td>7/14/13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>7/11/13</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Professional services, software and initial maintenance to implement Electronic Real Estate Excise Tax System (E-REET).

**ATTACHMENTS:**
1. Background Memo
2. Whatcom County Contract Information Sheet
3. Master Software License, Services and Support Agreement with Attachments A & B
4. Statement of Work with Exhibit A – Professional Services Proposal

**SEPA review required?** ( ) Yes  ( X ) NO  Should Clerk schedule a hearing? ( ) Yes  ( X ) NO
**SEPA review completed?** ( ) Yes  ( X ) 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.)

Request authorization for the County Executive to enter into an agreement between Whatcom County and Hyland Software, Inc. in the amount of $145,542.99 for professional services, software and initial maintenance to implement an Electronic Real Estate Excise Tax System (E-REET) solution with integration to the Assessor Treasurer System and Auditor Electronic Recording System.

**COMMITTEE ACTION:**

<table>
<thead>
<tr>
<th>RELATED COUNTY CONTRACT #:</th>
<th>RELATED FILE NUMBERS:</th>
<th>ORDINANCE OR RESOLUTION NUMBER:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** County Treasurer's Office  
**Contract Administrator:** Steve Oliver / Perry Rice  
**Contractor's / Agency Name:** Hyland Software

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>No</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>If yes, grantor agency contract number(s)</td>
<td></td>
<td></td>
<td>CFDA #</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>No</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>If yes, associated Whatcom County grant contract number(s)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process?</td>
<td>No</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>If yes, RFP and Bid number(s)</td>
<td></td>
<td></td>
<td>Cost Center: 4024</td>
</tr>
<tr>
<td>Is this contract excluded from E-Verify? No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, indicate qualified exclusion(s) below:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Contract less than $100,000.                                            |     |    | X  
| Work is for less than 120 days                                          |     |    | X  
| Interlocal Agreement (between Govt.)                                     |     |    |  

**Contract Amount:** (sum of orig contract amt and any prior amendments)  
$145,542.99  
**This Amendment Amount:** $  
**Total Amended Amount:** $

If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.

**Scope of Services:** Professional services, software and initial maintenance to implement an Electronic Real Estate Excise Tax System (E-REET) solution with integration to the Assessor Treasurer System and Auditor Electronic Recording System.

**Term of Contract:** N/A  
**Expiration Date:** Ongoing due to annual software maintenance

---

**Contract Routing Steps & Signoff:** [sign or initial]  
1. Prepared by date: [7/5/13]  
2. Attorney reviewed date: [7/6/13]  
3. AS Finance reviewed date: [7/6/13]  
4. IT reviewed if IT related date: [7/15/2013]  
5. Corrections made date: [7/6/13]  
6. Attorney signoff date:  
7. Contractor signed date:  
8. Submitted to Exec Office date:  
9. Council approved (if necessary) date:  
10. Executive signed date:  
11. Contractor Original Returned to dept. date:  
12. County Original to Council date:  

**[indicate date transmitted]**  
Date [electronically]  
Date [electronically]  
Date [electronically]  
Date [7/15/2013]  
Date [electronically]  
Date  
Date  
Date  
Date  
Date  
Date  
Date  
Date  

---

Last Revised 1/19/12
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Steven N. Oliver, County Treasurer

RE: Hyland Software, Inc.
Electronic Real Estate Excise Tax System (E-REET)

DATE: July 12, 2013

Enclosed are two (2) originals each of the Master Software License, Services and Support Agreement; the Statement of Work; and the Professional Services Proposal between Hyland Software, Inc. and Whatcom County for your review and signature.

- Background and Purpose
The proposed software solution will allow our local title companies and other trusted partners to submit electronically land transfer documents and deeds that require the filing of a Real Estate Excise Tax Affidavit prior to recording in the Auditor’s Office. Currently, this is a paper process involving manually entering significant amounts of transaction data. This solution will allow the fully automated submission and capture of electronic submissions from the title companies into the Assessor/Treasurer System. After processing in the Treasurer’s Office, the appropriate documents will be routed seamlessly to the Auditor’s Electronic Recording System for final recording of deeds. This is a highly sought after service by our local title companies.

This is a sole source agreement. The proposed software is the only currently operating off-the-shelf E-REET software solution in Washington State that has an interface to the existing Assessor/Treasurer System software. The proposed solution is in use in Clark County and the same solution is also currently being installed in Spokane County.
- **Funding Amount and Source**
The maximum consideration for this agreement is $145,542.99. We were successful in negotiating over $45,000 in savings. Additionally, we were able to acquire enterprise wide licensing of the core software system that could be used by the County for other purposes. For example, if the County acquired in the future the council agenda management system currently under consideration at the City of Bellingham, our cost to acquire this same system will be substantially reduced due to our success in negotiating for enterprise licensing of the core system.

Budget authority for this agreement was approved in the 2013/2014 biennial budget as part of the continuing funding for the Assessor/Treasurer System project. As you recall from previous project expenditures, funding for this project is via an interfund loan from the Equipment Revoiving and Replacement (ER&R) fund, a state Real Estate Excise Tax (REET) grant, state imposed Real Estate Excise Tax (REET) technology fee and general fund revenues. If the total project expenditures do not reach the approved budgeted authority, the county shall reduce the amount of the interfund loan from ER&R.

- **Contact Information**
Please contact Steve Oliver at extension x50075 or Perry Rice at extension x52511 if you have any questions or concerns regarding the terms of this agreement.

Encl.
MASTER SOFTWARE LICENSE, SERVICES AND SUPPORT AGREEMENT

This Master Software License, Services and Support Agreement ("Agreement") is made and entered into as of the Effective Date (as hereinafter defined) by and between Hyland Software, Inc., with its principal offices at 28500 Clemens Road, Westlake, Ohio 44145 ("Hyland"), and Whatcom County with its principal offices at 311 Grand Avenue, Suite 503, Bellingham, Washington 98225 ("Customer").

PURCHASE TABLE

<table>
<thead>
<tr>
<th>INITIAL SOFTWARE LICENSED:</th>
<th>SOFTWARE LICENSE FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIRE™ Software Modules:</td>
<td></td>
</tr>
<tr>
<td>E-REET/Recording Server Core [SIRE-ERSERV]</td>
<td>$45,000.00</td>
</tr>
<tr>
<td>Active Review Enterprise [SIRE-AR]</td>
<td>$25,000.00</td>
</tr>
<tr>
<td>Electronic Document Management Concurrent User [SIRE-EDM-CU!]</td>
<td>$3,750.00</td>
</tr>
<tr>
<td>Capture Station (Concurrent) [SIRE-CAP-CU1]</td>
<td>$1,700.00</td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td><strong>$75,450.00</strong></td>
</tr>
<tr>
<td>Less Discount</td>
<td>-$20,371.50</td>
</tr>
<tr>
<td><strong>SOFTWARE TOTAL:</strong></td>
<td><strong>$55,078.50</strong></td>
</tr>
<tr>
<td>plus Sales Tax calculated at 8.7%, which sales tax is presently calculated to be $4,791.83</td>
<td></td>
</tr>
</tbody>
</table>

ANNUAL MAINTENANCE AND SUPPORT FOR INITIAL SOFTWARE LICENSED:

An initial term of twelve (12) months of Maintenance and Support is required and County requests inclusion of First Renewal of twelve (12) months be included additionally:

<table>
<thead>
<tr>
<th>INITIAL ANNUAL MAINTENANCE FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial Maintenance Period:</td>
</tr>
<tr>
<td>First Renewal Maintenance Period:</td>
</tr>
<tr>
<td><strong>MAINTENANCE TOTAL:</strong></td>
</tr>
<tr>
<td>plus Sales Tax calculated at 8.7%, which sales tax amount is presently calculated to be $1,842.66</td>
</tr>
</tbody>
</table>

SERVICES UNDER HYLAND CONTRACT #: EU-000-45848:

<table>
<thead>
<tr>
<th>INITIAL FEES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Services and Training</td>
</tr>
<tr>
<td>Travel Expenses (Estimated)</td>
</tr>
<tr>
<td><strong>SERVICES TOTAL:</strong></td>
</tr>
</tbody>
</table>

PRICING FOR ADDITIONAL PROFESSIONAL SERVICES:

<table>
<thead>
<tr>
<th>SOW #: Basis for Pricing:</th>
<th>Resource/Service Type</th>
<th>PRICING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time and Materials</td>
<td>Project Manager</td>
<td>$168.75</td>
</tr>
<tr>
<td></td>
<td>Solution Engineer</td>
<td>$168.75</td>
</tr>
<tr>
<td></td>
<td>Workflow Engineer</td>
<td>$168.75</td>
</tr>
<tr>
<td></td>
<td>Integration Engineer</td>
<td>$168.75</td>
</tr>
<tr>
<td></td>
<td>Database Engineer</td>
<td>$168.75</td>
</tr>
</tbody>
</table>

Customer acknowledges and agrees that the pricing set forth above for additional professional services engagements is for projects performed on time and materials basis and shall be effective for such services which are provided through December 31, 2013.

The maximum consideration for the term of the Agreement not to exceed $145,542.99 except that annual maintenance and support fees will be ongoing after the first two year period, and the costs for such are excluded from the foregoing amount. In addition, Customer understands and agrees that the maximum consideration of $145,542.99 includes the services provided under Hyland Contract #: EU-000-45848 which is based upon seventeen (17) days of on-site services plus estimated costs of travel and

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expenses. In the event that the number of on-site services or actual costs of travel and expenses exceed the maximum consideration set forth herein, Customer agrees that such maximum consideration shall be increased to include such additional costs as agreed upon in writing between the parties. Customer further understands and agrees that the sales taxes included in the calculation of the maximum consideration set forth herein is calculated at the rate of 8.7% (which percentage is effective as of May 1, 2013 and is subject to change) of the total amounts set forth in the Purchase Table for the Initial Software Licensed and Annual Maintenance and Support for the Initial Software Licensed for the Initial Maintenance Period and First Renewal Maintenance Period. In the event that the actual sales taxes vary from those set forth herein or are increased prior to the Customer’s payment of any invoices related thereto and such maximum consideration is exceeded, Customer shall be responsible for and agrees to pay to Hyland any sales taxes due and such maximum consideration shall be increased to include such additional costs.

This Agreement consists of this document and the General Terms and Conditions attached to this document as Attachment A and Attachment B. All Software, Work Products, Maintenance and Support, and Professional Services which may be licensed or purchased by Customer from Hyland from time to time shall be governed by this Agreement (including any SOWs that may be entered into under this Agreement). The parties acknowledge and agree that this Agreement takes precedence over any conflicting terms contained in a SOW (or, if applicable, purchase order), except the extent that this Agreement specifically permits one of its terms to be varied in a SOW and such term is varied in a SOW. Customer specifically represents and warrants to Hyland that Customer has read and understands all of the General Terms and Conditions prior to entering into this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

HYLAND SOFTWARE, INC.
“HYLAND”

By: ____________________________

Print Name ________________________________

Title ________________________________

Date ________________________________

WHATCOM COUNTY:
Recommended for Approval:

_________________________ 7/15/13
County Treasurer Date

_________________________ 7/15/2013
IT Manager Date

Approved as to form:

_________________________ 7-15-13
Prosecuting Attorney Date
Approved:
Accepted for Whatcom County:

By: ____________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON       )
) ss
COUNTY OF WHATCOM          )

On this ______ day of ________, 20 __, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________
NOTARY PUBLIC in and for the State of Washington, residing at
___________________________. My commission expires
__________________________.
ATTACHMENT A

GENERAL TERMS AND CONDITIONS

1. DEFINED TERMS.

Certain capitalized terms used in this Agreement have the meanings set forth below:

(a) **Beta Software.** "Beta Software" means, either:

(1) a complete new version of the Software which is a pre-release version only, is still undergoing development and testing at Hyland and is not a Hyland commercially released product; or

(2) a potential new Software module which is included in a commercially-released version of the Software, but which is not available for commercial licensing by Customer or Hyland’s other customers generally and is still undergoing development and testing at Hyland.

(b) **Delivery.** "Delivery" (including "Deliver" or "Delivered") means:

(1) in the case of Software: (A) in the case of any Software module included in the initial Software referenced in the Purchase Table, by the electronic downloading of such Software onto Customer’s systems, or such Software being made available by Hyland to Customer for electronic download onto Customer’s systems from a location identified by Hyland to Customer; or (B) in the case of any later licensed Software module, by the Delivery (in accordance with subparagraph (2) below) by Hyland to Customer of a Production Certificate which includes such Software module; and

(2) in the case of a Production Certificate, by Hyland either shipping (physically or electronically) the Production Certificate to Customer or making the Production Certificate available for electronic download by Customer from a location identified by Hyland to Customer.

(c) **Documentation.** "Documentation" means: (1) in the case of the Software, the “Help Files” included in the Software which relate to the functional, operational or performance characteristics of the Software; or (2) in the case of any Work Product, the Specifications (if any) for the Work Product.

(d) **Effective Date.** "Effective Date" means the date this Agreement is signed by the last party that signs, as determined based upon the dates set forth after their respective signatures.

(e) **Error.** "Error" means any defect or condition inherent in the Software which is reported by Customer in accordance with this Agreement and which is confirmed by Hyland, that causes the Software to fail to function in all material respects as described in the Documentation.

(f) **Error Correction Services.** "Error Correction Services" means Hyland’s services described in Section 5.2(b).

(g) **Initial Maintenance Period.** "Initial Maintenance Period" is defined in Section 2.2(a).

(h) **Innovations.** "Innovations" means all designs, processes, procedures, methods and innovations which are developed, discovered, conceived or introduced by Hyland, working either alone or in conjunction with others, in the performance of this Agreement (including any SOW).

(i) **Maintenance and Support.** "Maintenance and Support" means for Supported Software, (i) Error Correction Services; (ii) Technical Support Services; and (iii) the availability of Upgrades and Enhancements in accordance with Section 5.2(d).

(j) **Production Certificate.** "Production Certificate" means license codes or a license certificate issued by Hyland and necessary for Customer to activate Software for Customer’s production use.

(k) **Professional Services.** "Professional Services" means any or all of the following professional services provided by Hyland under a SOW: (1) installation of the Software; (2) consulting, implementation and integration projects related to the Software, including but not limited to the customized configuration of Software integration modules or business process automation modules; (3) project management; and (4) development projects in connection with the integration of Software with other applications utilizing any Software application programming interface (API).
(l) **Software.** “Software” means: (1) the software modules listed in the Purchase Table, and such other of such product modules with respect to which Customer submits a written purchase order to Hyland that Hyland accepts and fulfills, including, in each case, third party software bundled by Hyland as part of a unified product; and (2) all Upgrades and Enhancements of the software modules described in clause (1) which Customer properly obtains pursuant to the terms of Section 5.2(d) of these General Terms and Conditions.

(m) **SOW.** “SOW” means a statement of work developed in accordance with Section 4 of these General Terms and Conditions, which sets forth specific Professional Services Hyland will provide to Customer, and which is signed by both parties.

(n) **Specifications.** “Specifications” means the definitive, final functional specifications for Work Products, if any, produced by Hyland under a SOW.

(o) **Supported Software; Retired Software.** At any particular time during a maintenance period covered by Section 5 of these General Terms and Conditions: (1) “Supported Software” means the current released version of the Software licensed by Customer from Hyland and any other version of such Software that is not Retired Software; or (2) “Retired Software” means any version of the Software licensed by Customer from Hyland under this Agreement which is identified as being retired on Hyland’s applicable secure end user web site (as described on Attachment B). Hyland will specify on its end user web site Software versions which become Retired Software. The effective date of such change will be twelve (12) months from the date Hyland initially posts the status change on its end user web site.

(p) **Technical Support Services.** “Technical Support Services” means Hyland’s services described in Section 5.2(a).

(q) **Upgrades and Enhancements.** “Upgrades and Enhancements” means any and all new versions, improvements, modifications, upgrades, updates, fixes and additions to Software that Hyland makes available to Customer or to Hyland’s end users generally during the term of this Agreement to correct Errors or deficiencies or enhance the capabilities of the Software, together with updates of the Documentation to reflect such new versions, improvements, modifications, upgrades, fixes or additions; provided, however, that the foregoing shall not include new, separate product offerings, new modules or re-platformed Software.

(r) **Work Products.** “Work Products” means all items in the nature of computer software, including source code, object code, scripts, and any components or elements of the foregoing, together with any and all design documents associated with items in the nature of computer software, in each case which are created, developed, discovered, conceived or introduced by Hyland, working either alone or in conjunction with others, in the performance of services under this Agreement.

2. **FEES; EXPENSE REIMBURSEMENTS; TAXES; PAYMENT TERMS.**

2.1 **SOFTWARE LICENSE FEES; PAYMENT TERMS.**

(a) **Initial Software Licensed.** Upon successful Delivery of the Software listed in the Purchase Table, Customer shall pay to Hyland 50% of the total Software fees specified in the purchase table. The remaining 50% shall be invoiced by Hyland and payable by Customer on Final Acceptance. For purposes of this Agreement, “Final Acceptance” means thirty (30) days from completion of Go-Live support as more fully set forth in Contract #: EU-0000-45848.

(b) **Follow-on Purchases of Licenses of Software.** Software license fees for follow-on purchases of licenses of Software shall be determined at Hyland’s retail list prices in effect at the time Customer submits its applicable purchase orders, or at such other prices as the parties may mutually agree upon. Hyland shall invoice Customer for such Software license fees promptly upon Hyland’s acceptance of Customer’s applicable purchase orders. Customer shall pay such invoices in full in accordance with Section 2.8 below.

2.2 **ANNUAL MAINTENANCE FEES; PAYMENT TERMS.**

(a) **Initial Maintenance Period.** The first maintenance period relating to the initial Supported Software listed in the Purchase Table shall be the twelve (12) month period that begins on Final Acceptance (the “Initial Maintenance Period”). Upon or promptly following the Effective Date, Hyland shall invoice Customer for the annual maintenance fees for the Initial Maintenance Period and the first renewal maintenance period for the initial Supported Software listed in the purchase table. Customer shall pay such invoice in full or before the date of Final Acceptance.

(b) **First Maintenance Period for Add-on Software.** The first maintenance period related to Supported Software modules for which Customer purchases licenses under this Agreement after the Effective Date shall begin upon Delivery of such additional Software. Annual maintenance fees for the first maintenance period applicable to such Software shall be determined at

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Hyland’s retail list prices in effect at the time Customer submits its applicable purchase orders, or at such other prices as the parties may mutually agree upon. Hyland shall invoice Customer for the annual maintenance fees for the first maintenance period applicable to such Software promptly upon Hyland’s acceptance of Customer’s purchase order for the purchase of Maintenance and Support for such Software. Customer shall pay such invoices in full in accordance with Section 2.8 below.

(c) Subsequent Maintenance Periods. Customer shall pay annual maintenance fees in such amounts as are invoiced for all renewal maintenance periods after the first maintenance period applicable to a particular Supported Software module. Hyland shall invoice Customer for the annual maintenance fees for each renewal maintenance period at least forty-five (45) days prior to the end of the then-current maintenance period. Customer shall pay each such invoice in full on or prior to the first day of the renewal maintenance period to which such invoice relates.

(d) In the event that Customer desires to utilize the Active Review Enterprise Software for purposes other than use with the E-REET Solution, Customer agrees to provide Hyland with advance written notice of the same and pay to Hyland annual maintenance fees for the Active Review Enterprise module:

(i) shall be based upon Hyland’s retail list price of Fifty Thousand Dollars ($50,000.00) based on initial price quoted; and

(ii). Annual maintenance fees for subsequent renewal maintenance periods for the Active Review Enterprise module shall be determined in accordance with paragraph (c) above.

2.3 PROFESSIONAL SERVICES FEES. All pricing for professional services fees and all invoicing and payment terms related thereto shall be set forth in the applicable SOW. In connection with any professional services engagement in which the Hyland resource(s) is required to travel outside of the metropolitan area (or, if not applicable, the city or town) in which such Hyland resource(s) regularly works when not at a third party location, all determinations of professional services fees shall include travel time; provided that time spent commuting from a local place of residence (including a hotel) to a work location in the same locale will not be included in travel time. Except as otherwise provided in any applicable SOW, Hyland shall invoice Customer for professional service fees on a monthly basis, in arrears; and Customer shall pay in full each such invoice in accordance with Section 2.8 below.

2.4 TRAVEL AND EXPENSES. Customer shall be responsible to pay or reimburse Hyland for all customary and reasonable out-of-pocket travel, meals and lodging costs and expenses incurred by Hyland in connection with the performance of services under this Agreement and reimbursable in accordance with Hyland’s applicable internal policy for the reimbursement of costs and expenses to its employees (“Hyland Expense Policy”). Except as otherwise provided in any applicable SOW, Hyland shall invoice Customer for all reimbursable costs and expenses on a monthly basis, in arrears; and Customer shall pay in full each such invoice in accordance with Section 2.8 below.

2.5 TRAINING. Hyland is permitted to treat this Agreement as Customer’s written purchase order for the initial training, if any, listed in the Purchase Table, and Hyland’s execution of this Agreement shall constitute Hyland’s acceptance of such purchase order. Upon or promptly following the Effective Date, Hyland shall invoice Customer for the training fees specified in the Purchase Table for such initial training, and such invoice shall be due and payable in full in accordance with Section 2.8 below. Customer acknowledges and agrees that training listed in the Purchase Table must be completed within twenty-four (24) months following the Effective Date. After such time Customer shall be required to repurchase the training at Hyland’s then-current rates. Fees for other training which is not included in the training listed in the Purchase Table (e.g., additional training or expansion of the training listed in the Purchase Table to include additional personnel) shall be determined at Hyland’s retail list prices in effect at the time Customer registers for such training.

2.6 TAXES AND GOVERNMENTAL CHARGES. All payments under this Agreement are exclusive of all applicable taxes and governmental charges (such as duties), all of which shall be paid by Customer (other than taxes on Hyland’s income). In the event Customer is required by law to withhold taxes, Customer agrees to furnish Hyland all required receipts and documentation substantiating such payment. If Hyland is required by law to remit any tax or governmental charge on behalf of or for the account of Customer, Customer agrees to reimburse Hyland within thirty (30) days after Hyland notifies Customer in writing of such remittance. Customer agrees to provide Hyland with valid tax exemption certificates in advance of any remittance otherwise required to be made by Hyland on behalf of or for the account of Customer, where such certificates are applicable.

2.7 INVOICING. All invoices shall be sent electronically by Hyland to Customer to the attention of “Accounts Payable,” or to such other person or department as Customer may specify from time to time by written notice to Hyland. In the event any invoice contains an under billing error which is discovered by Hyland, Hyland may issue a new invoice to correct the error.

2.8 GENERAL PAYMENT TERMS. So long as Customer is not in default of any payment obligations under this Agreement (including any SOW), except as otherwise provided in this Agreement, Customer shall pay in full each invoice from
2.9 RESOLUTION OF INVOICE DISPUTES. If, prior to the due date for payment under any invoice, Customer notifies Hyland in writing that it disputes all or any portion of an amount invoiced, both parties will use commercially reasonable efforts to resolve the dispute within thirty (30) calendar days Hyland’s receipt of the notice. If any amount remains disputed in good faith after such (30-day) period, either party may escalate the disputed items to the parties’ respective executive management to attempt to resolve the dispute. The parties agree that at least one of each of their respective executives will meet (which may be by telephone or other similarly effective means of remote communication) within ten (10) calendar days of any such escalation to attempt to resolve the dispute. If the parties’ respective executive managers are unable to resolve the dispute within ten (10) calendar days of such meeting, either party thereafter may file litigation in a court of competent jurisdiction under Section 12.1 of these General Terms and Conditions to seek resolution of the dispute.

2.10 CERTAIN REMEDIES FOR NON-PAYMENT OR FOR LATE PAYMENT. At the election of Hyland, and subject to Section 2.9, exercisable by written notice to Customer, any past due amounts under any Hyland invoice shall bear interest at the rate of one and one-half percent (1.5%) per month (or, if lower, the maximum rate lawfully chargeable) from the date due through the date that such past due amounts and such accrued interest are paid in full. In the event of any default by Customer in the payment of any amounts invoiced by Hyland, which default continues unremedied for at least thirty (30) calendar days after the due date of such payment, Hyland shall have the right to suspend or cease the provision of any services under this Agreement or any SOW, and the delivery of any Upgrades and Enhancements of Software, to Customer unless and until such default shall have been cured.

2.11 U.S. DOLLARS. All fees, costs and expenses under this Agreement shall be determined and invoiced in, and all payments required to be made in connection with this Agreement shall be made in, U.S. dollars.

3. CERTAIN TERMS APPLICABLE TO SOFTWARE AND WORK PRODUCTS.

3.1 PURCHASE ORDERS FOR SOFTWARE. Customer shall submit a written purchase order to Hyland for the purchase of licenses for all Software that Customer licenses under this Agreement; provided, however, that, when this Agreement is signed by both parties, Hyland is permitted to treat this Agreement as Customer’s written purchase order for the initial Software listed in the Purchase Table and in such case this Agreement shall constitute Hyland’s acceptance of such purchase order. Each such purchase order shall be subject to acceptance or rejection by Hyland. The Software shall be Delivered following acceptance by Hyland of Customer’s purchase order.

3.2 SOFTWARE AND WORK PRODUCTS LICENSE.

(a) Subject to Customer’s payment in full of the Software license fees and any professional services fees related to Professional Services associated with any Work Products, and subject further to Customer’s compliance with this Agreement, Hyland grants to Customer a perpetual (except as otherwise provided in this Agreement), non-exclusive, non-assignable, limited license to: (1) the Software and Work Products, in machine-readable object code form only, and the associated Documentation, solely for use by Customer internally, and only for storing, processing and accessing Customer’s own data; and (2) with respect to Work Products only, modify and add to the Work Products solely for Customer’s internal use in connection with the Software. The Software, Work Products and associated Documentation are licensed for use by a single organization and may not be used for processing of third-party data as a service bureau, application service provider or otherwise. Customer shall not make any use of the Software, Work Products or associated Documentation in any manner not expressly permitted by this Agreement.

(b) Each module of the Software and each Work Product is licensed for a specific type of use, such as concurrently or on a specified workstation or by a specified individual and the Software may control such use. Use of software or hardware that reduces the number of users directly accessing or utilizing the Software or Work Products (sometimes called “multiplexing” or “pooling” software or hardware) does not reduce the number of Software licenses required. The required number of Software licenses would equal the number of distinct inputs to the multiplexing or pooling software or hardware. Customer is prohibited from using any software other than the Software Client modules or a Software application programming interface (API) to access the Software or any data stored in the Software database for any purpose other than generating reports or statistics regarding system utilization, unless Hyland has given its prior written consent to Customer’s use of such other software and Customer has paid to Hyland the Software license fees with respect to such access to the Software or data stored in the Software database in accordance with Hyland’s licensing policies applicable to the Software modules that provide access to the Software application modules and data stored in the Software database.

(c) Customer shall be entitled to use one (1) production copy of each Software module and each Work Product licensed. In addition, Customer shall be entitled to license: one (1) additional copy of the production environment licensed Software and Work Products for customary remote disaster recovery purposes which may not be used as a production system concurrently with the operation of any other copy of the Software or Work Products in a production environment; and a

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reasonable number of additional copies of the production environment licensed Software and Work Products to be used exclusively in a non-production environment and solely for the purposes of experimenting and testing the Software and Work Products, developing integrations between the Software or Work Products and other applications that integrate to the Software or Work Products solely using integration modules of the Software licensed by Customer under this Agreement, and training Customer’s employees on the Software and Work Products (“Test Systems”). Customer may be required to provide to Hyland certain information relating to Customer’s intended use of such Test Systems such as the manufacturer, model number, serial number and installation site. Hyland reserves the right to further define the permitted use(s) and/or restrict the use(s) of the Test Systems. Customer’s sole recourse in the event of any dissatisfaction with any Software or Work Products in any non-production system is to stop using such Software or Work Products and return it to Hyland, provided that, in the event Customer is currently purchasing Maintenance and Support from Hyland, to the extent that Customer is using the non-production system for the purposes of testing an Upgrade or Enhancement of the Software prior to implementing the same in Customer’s production environment, then Customer may contact Hyland for the provision of Maintenance and Support as described in Section 5.2 Customer shall not make any copies of the Software or Work Products not specifically authorized by this Section 3.2(c).

(d) From time to time Hyland may make Beta Software available for Customer’s use in the Test Systems; and Customer may elect to license and use the Beta Software in the Test Systems. Notwithstanding anything to the contrary, as to any Beta Software, the Agreement and the limited license granted hereby will terminate on the earliest of: (1) ten (10) days after the date of delivery by either party to the other party of written notice of termination of the beta testing period for such Beta Software; or (2) the date of Hyland’s commercial release of the final version of such Beta Software for licensing to end users generally. Upon expiration or other termination of such period, Customer immediately shall discontinue any and all use of the Beta Software and related documentation and remove or permit Hyland to deactivate the Beta Software.

(e) From time to time Customer may elect to evaluate certain Software modules (“Evaluation Software”) for the purpose of determining whether or not to purchase a production license of such Evaluation Software. Evaluation Software is licensed for Customer’s use in Customer’s Test Systems. Notwithstanding anything to the contrary, as to any Evaluation Software, the Agreement and the limited license granted hereby will terminate on the earliest of: (1) last day of the evaluation period specified in the accepted purchase order delivered for such Evaluation Software; or (2) immediately upon the delivery of written notice to such effect by Hyland to Customer. Upon expiration or other termination of such period, Customer immediately shall either (A) discontinue any and all use of the Evaluation Software and related Documentation and remove the Evaluation Software; or (B) deliver a purchase order for purchase of such Evaluation Software.

(f) Customer agrees: (1) not to remove any Hyland notices in the Software, Work Products or Documentation; (2) not to sell, transfer, rent, lease, time share or sub-license the Software, Work Products or Documentation to any third party; (3) except as expressly permitted by Section 3.2(a) with respect to Work Products, not to alter or modify the Software, Work Products or Documentation; (4) not to reverse engineer, disassemble, decompile or attempt to derive source code from the Software or Work Products; and (5) not to prepare derivative works from the Software, Work Products or Documentation.

(g) Customer acknowledges that, depending on the modules licensed, the Software may include open source software governed by an open source license, in which case the open source license (a copy of which is provided in the Software) may grant you additional rights to such open source software.

3.3 OWNERSHIP. Hyland and its suppliers own the Software, Work Products, Documentation and Innovations, including, without limitation, any and all worldwide copyrights, patents, trade secrets, trademarks and proprietary and confidential information rights or in associated with the foregoing. The Software and Work Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. No ownership rights in the Software or Work Products are transferred to Customer. Customer agrees that nothing in this Agreement or associated documents gives it any right, title or interest in the Software or Work Products, except for the limited express rights granted in this Section 3. THIS AGREEMENT IS NOT A WORK-FOR-HIRE AGREEMENT.

3.4 INFRINGEMENT INDEMNIFICATION.

(a) Generally. Hyland agrees to indemnify Customer against all liability and expense, including reasonable attorneys’ fees, arising from or in connection with any third party claim, action or proceeding instituted against Customer based upon any infringement or misappropriation by the Software or Work Products of any patent, registered copyright or registered trademark of a third party that is enforceable in the United States, provided that Hyland: (1) is notified immediately after Customer receives notice of such claim; (2) is solely in charge of the defense of and any settlement negotiations with respect to such claim; (3) receives Customer’s reasonable cooperation in the defense or settlement of such claim; and (4) has the right, upon either the occurrence of or the likelihood (in the opinion of Hyland) of the occurrence of a finding of infringement or misappropriation, either to procure for Customer the right to continue use of the Software or Work Products, or to replace the relevant portions of the Software or Work Products with other equivalent, non-infringing portions.
(b) Removal and Refund. If Hyland is unable to accomplish either of the options set forth in Section 3.4(a)(4), Hyland shall either:

1. remove the infringing portion of the Software and/or Work Products and refund to Customer:

   (A) if applicable, the full Software license fees paid by Customer, plus the "unused portion of annual maintenance fees" (as defined in Section 10.3(b) of these General Terms and Conditions) paid by Customer for the then-current maintenance period of Section 5 of these General Terms and Conditions as determined from the date of removal, in each case with respect to the infringing portion of the Software; and/or

   (B) if applicable, the full professional services fees paid by Customer for the creation and implementation of the infringing Work Products; or

2. if the removal of the infringing Software or Work Products renders all of the Software and Work Products essentially useless to Customer for the uses Customer previously has been making of the Software and Work Products in accordance with this Agreement, and at the election of Customer in such a case, remove the entire Software and Work Products, terminate this Agreement and refund to Customer:

   (A) if applicable, the full Software license fees paid by Customer for the infringing portion of the Software; plus

   (B) if applicable, the unamortized Software license fees (determined as provided below) paid by Customer for all non-infringing portions of Software that are removed; plus

   (C) if (A) and (B) above are applicable, then the "unused portion of annual maintenance fees" (as defined in Section 10.3(b) of these General Terms and Conditions) paid by Customer for the then-current maintenance period of Section 5 of these General Terms and Conditions as determined from the date of removal; plus

   (D) if applicable, the full professional services fees paid by Customer for the creation and implementation of the infringing portion of the Work Products, plus

   (E) if applicable, the unamortized professional services fees (determined as provided below) paid by Customer for all non-infringing Work Products that are removed.

In determining the "unamortized" amount of any Software license fees or professional services fees hereunder, such amount shall be determined based upon a three (3) year straight-line amortization schedule commencing on the date the Software or Work Product in question is Delivered by Hyland to Customer.

(c) Exclusions. Notwithstanding anything to the contrary, Hyland shall have no obligation to Customer to defend or satisfy any claims made against Customer and otherwise described in Section 3.4(a) that arise from: (1) use of the Software or Work Products by Customer other than as expressly permitted by this Agreement; (2) the combination of the Software or Work Products with any product not furnished by Hyland to Customer; or (3) the modification or addition to of the Software or Work Products other than by Hyland or any of its authorized solution providers specifically retained by Hyland to provide such modification or addition.

(d) THIS SECTION 3.4 STATES HYLAND’S ENTIRE LIABILITY AND THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY ALLEGED INFRINGEMENT OR MISAPPLICATION OF INTELLECTUAL PROPERTY OR PROPRIETARY PROPERTY BY THE SOFTWARE, THE WORK PRODUCTS OR THE SERVICES.

3.5 U.S. GOVERNMENT END USERS. The terms and conditions of this Agreement shall pertain to the Government’s use and/or disclosure of the Software of the Work Products, and shall supersede any conflicting contractual terms or conditions. By accepting the terms of this Agreement and/or the Delivery of the Software, the Government hereby agrees that the Software qualifies as “commercial” computer software within the meaning of ALL federal acquisition regulation(s) applicable to this procurement and that the Software is developed exclusively at private expense. If this license fails to meet the Government’s needs or is inconsistent in any respect with Federal law, the Government agrees to return this Software and Work Products to Hyland. In addition to the foregoing, where DFARS is applicable, use, modification, reproduction, release, display, or disclosure of the Software, Work Products or Documentation by the Government is subject solely to the terms of this Agreement, as stated in DFARS 227.7202, and the terms of this Agreement shall supersede any conflicting contractual term or conditions.
4. PROFESSIONAL SERVICES.

4.1 REQUEST. Customer may request Professional Services from Hyland at any time during the term of this Section 4. If Hyland agrees to provide such Services, the parties will create a SOW for the applicable project. Nothing in this Agreement shall require either party to enter into any particular SOW; provided, however, that if Customer requests a Professional Services project which the parties agree will require less than forty (40) working hours of Professional Services, then the parties may mutually agree to proceed with the requested Professional Services project upon Customer’s submission of a written purchase order, specifying the nature and scope of such Professional Services, and Hyland’s acceptance of such purchase order.

4.2 PERFORMANCE; DELAYS. Hyland agrees to provide the Professional Services described in each SOW. If any delays in such Professional Services occur solely as a result of any incorrect information, incorrect assumption or failure of Customer to perform or fulfill its obligations in connection with any SOW, the performance schedule under the applicable SOW may be extended. Hyland shall have no liability or responsibility for such costs or expenses resulting from such delays. In the event that performance of any milestone set forth in any SOW is not met due to a delay solely caused by Hyland, and provided that such cause is not an event of force majeure as described in Section 11 of these General Terms and Conditions, Hyland agrees, at no charge to Customer, to commit such additional resources and personnel as shall be necessary to ensure that such delay does not result in the slippage of later milestones or completion of such Professional Services.

4.3 CHANGES TO SOW. Hyland or Customer may, at any time, reasonably request a change to any SOW. Any requested change that the parties mutually accept (a “Change”) will be set forth in a written change order prepared by Hyland and agreed to and signed by both parties that specifically references the relevant SOW. In the event the parties are unable to mutually agree upon a proposed Change or a proposed change order, and such proposed Change relates to a material component of the project that is the subject of the relevant SOW, either party may terminate such SOW upon not less than thirty (30) days advance written notice to the other party.

4.4 CUSTOMER’S OBLIGATIONS.

(a) Assistance and Obligations. Customer agrees that it will cooperate with and assist Hyland in the performance of Professional Services under any SOW; will provide the resources specified in the relevant SOW; and will perform or fulfill all obligations required to be performed or fulfilled by Customer under the terms of the relevant SOW. Customer acknowledges that if it fails to provide assistance and perform or fulfill its obligations in accordance with this Section 4.4(a) and the relevant SOW, Hyland’s ability to provide such Professional Services, meet the performance schedule set forth in such SOW and keep professional services fees reasonably in line with any estimates given in the SOW may be adversely affected.

(b) Third Party Software Rights. Notwithstanding any contrary terms, if Customer requests Hyland to perform Professional Services on or with respect to any third party software, Customer represents and warrants to Hyland that Customer has all necessary rights to allow Hyland to do so.

(c) Protection of Customer’s Systems. CUSTOMER UNDERSTANDS THAT IT IS SOLELY RESPONSIBLE TO TAKE APPROPRIATE MEASURES TO ISOLATE AND BACKUP OR OTHERWISE ARCHIVE ITS COMPUTER SYSTEMS, INCLUDING ITS COMPUTER PROGRAMS, DATA AND FILES.

(d) Safe Work Environment. Customer will be responsible for and shall ensure that while Hyland employees, agents or subcontractors are on Customer’s premises, all proper and legal health and safety precautions are in place and fully operational to protect such persons.

5. MAINTENANCE AND SUPPORT FOR SUPPORTED SOFTWARE AND RETIRED SOFTWARE.

5.1 PURCHASE ORDERS. Customer shall be required to submit a purchase order for the purchase of Maintenance and Support under this Agreement for the first maintenance period under this Section 5 applicable to each Supported Software; provided, however, that, when this Agreement is signed by both parties, Hyland is permitted to treat this Agreement as Customer’s written purchase order for Maintenance and Support for the Initial Maintenance Period for the initial Supported Software listed in the Purchase Table and in such case this Agreement also shall constitute Hyland’s acceptance of such purchase order. Each such purchase order shall be subject to acceptance or rejection by Hyland.

5.2 MAINTENANCE AND SUPPORT TERMS. Hyland will provide Maintenance and Support during the hours described on Attachment B described below.

(a) Technical Support Services. Hyland will provide telephone or online technical support related to problems reported by Customer and associated with the operation of any Supported Software, including assistance and advice related to the operation of the Supported Software. Technical Support Services are not available for Retired Software.
(b) **Error Correction Services.** With respect to any Errors in the Supported Software which are reported by Customer and which are confirmed by Hyland, in the exercise of its reasonable judgment, Hyland will use its commercially reasonable efforts to correct the Error, which may be effected by a commercially reasonable workaround. Hyland shall promptly commence to confirm any reported Errors after receipt of a proper report of such suspected Error from Customer. Hyland may elect to correct the Error in the current available or in the next available commercially released version of the Supported Software and require Customer to implement an Upgrade and Enhancement to the version selected by Hyland in order to obtain the correction. Error Correction Services are not available for Retired Software.

(c) **Reporting Policies and Procedures Applicable to Technical Support Services and Error Correction Services.** In requesting Maintenance and Support services, Customer will report in accordance with Hyland’s then-applicable reporting policies and in accordance with Section 5.2(b) above. Hyland’s current policies require Customer to report by telephone, using Hyland’s regular technical support telephone line, or by e-mail, (each as described on Attachment B). In the case of reporting an Error, if requested by Hyland, Customer agrees to provide written documentation of such Error to substantiate the Error and to assist Hyland in the detection, confirmation and correction of such Error.

(d) **Upgrades and Enhancements.** Hyland will provide, in accordance with Hyland’s then current policies, as set forth from time to time on Hyland’s secure end user web site (as described on Attachment B), all Upgrades and Enhancements, if and when released during the term of this Section 5. Customer acknowledges and agrees that, with respect to Hyland’s end users generally, Hyland has the right, at any time, to change the specifications and operating characteristics of the Software and Hyland’s policies respecting Upgrades and Enhancements and the release thereof. Upgrades and Enhancements are not available for Retired Software.

(e) **On-line Access.** Customer acknowledges and agrees that Hyland may require on-line access to the Supported Software installed on Customer’s systems in order to provide Maintenance and Support. Accordingly, Customer shall install and maintain means of communication and the appropriate communications software as mutually agreed upon by Hyland and Customer and an adequate connection with Hyland to facilitate Hyland’s on-line Maintenance and Support. Such right of access and use shall be provided at no cost or charge to Hyland.

5.3 **EXCLUSIONS.**

(a) **Generally.** Hyland is not responsible for providing, or obligated to provide, Maintenance and Support under this Agreement: (1) in connection with any Errors or problems that result in whole or in part from any alteration, revision, change, enhancement or modification of any nature of the Software, or from any design defect in any configuration of the Software, which activities in any such case were undertaken by any party other than Hyland; (2) in connection with any Error if Hyland has previously provided corrections for such Error which Customer fails to implement; (3) in connection with any Errors or problems that have been caused by errors, defects, problems, alterations, revisions, changes, enhancements or modifications in the database, operating system, third party software (other than third party software embedded in the Software by Hyland), hardware or any system or networking utilized by Customer; (4) if the Software or related software or systems have been subjected to abuse, misuse, improper handling, accident or neglect; or (5) if any party other than Hyland, or an authorized subcontractor specifically selected by Hyland, has provided any services in the nature of Maintenance and Support to Customer with respect to the Software. Maintenance and Support does not include any services that Hyland may provide in connection with assisting or completing an upgrade of Supported Software with any available Upgrade and Enhancement.

(b) **Work Products.** Maintenance and Support is not provided for any Work Products; however, if Customer desires Maintenance and Support regarding the operation or use of Work Products, Customer may request such Maintenance and Support and the parties may agree to enter into a SOW for such Maintenance and Support in accordance with Section 4.1 of these General Terms and Conditions.

(c) **Excluded Software and Hardware.** This Agreement does not govern, and Hyland shall not be responsible for, the maintenance or support of any software other than Supported Software, or for any hardware or equipment of any kind or nature, whether or not obtained by Customer from Hyland.

5.4 **CERTAIN OTHER RESPONSIBILITIES OF CUSTOMER.**

(a) **Operation of the Software and Related Systems.** Customer acknowledges and agrees that it is solely responsible for the operation, supervision, management and control of the Software and all related hardware and software (including the database software); and for obtaining or providing training for its personnel; and for instituting appropriate security procedures and implementing reasonable procedures to examine and verify all output before use.

(b) **Access to Premises and Systems.** Customer shall make available reasonable access to and use of Customer’s premises, computer hardware, peripherals, Software and other software as Hyland deems necessary to diagnose and correct any Errors or to otherwise provide Maintenance and Support Services. Such right of access and use shall be provided at no cost or
charge to Hyland. In connection with any provision of Professional Services on the site of Customer, Customer may require any such Hyland employees providing services to have successfully passed a background check conducted by the Whatcom County Sheriff’s Office, at the cost of Customer, provided that in each such case the individual employee must consent to such background check being performed. Further, Customer acknowledges and agrees that Hyland is not responsible for a delay in the provision of services under this Section 5 which occur as a result of the need to complete any such background check(s).

5.5 OPTIONAL SUPPORT SERVICES. Standard Maintenance and Support does not include any services described as part of Hyland’s optional support services as described on any of the websites referred to on Attachment B. Customer may purchase such optional support services in accordance with an appropriate amendment to this Agreement.

5.6 PROFESSIONAL SERVICES FOR PROJECTS NOT COVERED BY TECHNICAL SUPPORT SERVICES OR ERROR CORRECTION SERVICES. If Customer requests Professional Services which are outside the scope of Technical Support Services or Error Correction Services, Customer agrees that such services shall not be covered by this Section 5 or the annual maintenance fees and such services only shall be engaged pursuant to a SOW and Professional Services engagement under Section 4 of these General Terms and Conditions.

5.7 MAINTENANCE PERIODS; RENEWAL AND NON-RENEWAL; REINSTATION.

(a) Generally. Subject to the termination provisions of this Agreement, the first maintenance period of Section 5 shall be the Initial Maintenance Period; and Section 5 may be renewed for an additional maintenance period only by mutual agreement of the parties as follows: (A) at the end of the Initial Maintenance Period, for a period from the first day after the end of the Initial Maintenance Period through December 31 of the calendar year in which the Initial Maintenance Period ends; and (B) thereafter, annually on a calendar year by calendar year basis. For follow-on purchases of Software, the first maintenance period shall begin upon Delivery of such Software and continue for twelve months, and may be renewed for an additional maintenance period only by mutual agreement of the parties as follows: (i) at the end of the first maintenance period, for a period from the first day after the end of the first maintenance period through December 31 of the calendar year in which the first maintenance period ends; and (ii) thereafter, annually on a calendar year by calendar year basis. With respect to any renewal maintenance period, mutual agreement may be evidenced by Hyland’s invoicing of annual maintenance fees for such renewal maintenance period and Customer’s timely payment of such annual maintenance fees. Notwithstanding anything to the contrary, the term of Section 5 shall immediately terminate at the time the version of the Supported Software licensed by Customer and in use in its production environment becomes Retired Software.

(b) Reinstatement. In the event of the termination of Maintenance and Support under Section 5 either by Customer’s decision not to renew or by the Supported Software becoming Retired Software, Customer may during the term of this Agreement after the effective date of such termination elect to reinstate the term of Section 5 in accordance with this paragraph. To obtain reinstatement, Customer shall: (1) deliver written notice to such effect to Hyland; (2) pay to Hyland (A) annual maintenance fees for all maintenance periods which would have elapsed from the effective date of such termination through the effective date of such reinstatement; and (B) an amount equal to one hundred percent (100%) of the annual maintenance fees for the renewal period of such Section 5 commencing on the effective date of such reinstatement; and (3) if the Supported Software has become Retired Software, upgrade to the latest released version of the Software which is Supported Software. Any reinstatement under this paragraph shall be effective as of the first business day after Hyland has received the notice of reinstatement and all payments required to be made hereunder in connection with such reinstatement. The renewal maintenance period commencing with the effective date of such reinstatement shall be for a period ending on the first annual anniversary of such effective date; and thereafter Section 5 shall be renewed for an additional maintenance period as described in paragraph (a) above.

6. LIMITED WARRANTIES.

6.1 LIMITED WARRANTY FOR SUPPORTED SOFTWARE AND WORK PRODUCTS.

(a) For a period of sixty (60) days from and including the date a Supported Software module has been Delivered to Customer, Hyland warrants to Customer that such Supported Software module, when properly installed and properly used, will function in all material respects as described in the Documentation. The terms of this warranty shall not apply to, and Hyland shall have no liability for any non-conformity related to: (1) any Retired Software modules; or (2) any Supported Software module that has been (A) modified by Customer or a third party, (B) used in combination with equipment or software other than that which is consistent with the Documentation, or (C) misused or abused.

(b) For a period of sixty (60) days from and including the date that Hyland has delivered a completed Work Product to Customer, Hyland warrants to Customer that such Work Product, when properly installed and properly used, will function in all material respects as described in the Documentation. The terms of this warranty shall not apply to, and Hyland shall have no liability for any non-conformity related to, any Work Product that has been (1) modified or added to by Customer.
or a third party, (2) used in combination with equipment or software other than that which is consistent with the Documentation, or (3) misused or abused.

(c) Hyland’s sole obligation, and Customer’s sole and exclusive remedy, for any non-conformities to the express limited warranties under paragraph (a) or (b) shall be as follows: provided that, within the applicable 60-day period, Customer notifies Hyland in writing of the non-conformity, Hyland will either (1) repair or replace the non-conforming Supported Software module or Work Product, which may include the delivery of a commercially reasonable workaround for the non-conformity; or (2) if Hyland determines that repair or replacement of the Supported Software module or Work Product is not commercially practicable, then terminate this Agreement with respect to the non-conforming Supported Software module or with respect to the non-conforming Work Product, in which event, upon compliance by Customer with its obligations under Section 10.3(a) of these General Terms and Conditions, Hyland will refund any portion of the Software license fees and annual maintenance fees paid prior to the time of such termination with respect to such Supported Software or the professional services fees paid prior to the time of such termination with respect to the creation and implementation of such Work Product.

6.2 LIMITED WARRANTY FOR SERVICES.

(a) For a period of sixty (60) days from the date of completion of Professional Services, Technical Support Services or Error Correction Services, Hyland warrants to Customer that such services have been performed in a good and workmanlike manner and substantially according to industry standards. This warranty specifically excludes non-performance issues caused as a result of incorrect data or incorrect procedures used or provided by Customer or a third party or failure of Customer to perform and fulfill its obligations under this Agreement.

(b) Hyland’s sole obligation, and Customer’s sole and exclusive remedy, shall be for Hyland to use commercially reasonable efforts to re-perform the non-conforming services in an attempt to correct the non-conformity(ies). If Hyland is unable to correct such non-conformity(ies) after a reasonable period of time, Customer’s sole and exclusive remedy shall be: (a) in the case of Professional Services, to terminate the SOW under which the non-conforming Services have been performed, in which event Hyland will refund to Customer any portion of the Professional Services fees under such SOW relating directly to such non-conforming Professional Services paid prior to the time of such termination; or (b) in the case of Technical Support Services or Error Correction Services, to exercise its termination rights under Section 7.2 of these General Terms and Conditions.

7. DISCLAIMER OF WARRANTIES.

(a) EXCEPT FOR THE WARRANTIES PROVIDED BY HYLAND AS EXPRESSLY SET FORTH IN SECTION 6 OF THESE GENERAL TERMS AND CONDITIONS, HYLAND AND ITS SUPPLIERS MAKE NO WARRANTIES OR REPRESENTATIONS REGARDING ANY SOFTWARE, WORK PRODUCTS, INNOVATIONS, INFORMATION, MAINTENANCE AND SUPPORT OR PROFESSIONAL SERVICES PROVIDED UNDER THIS AGREEMENT OR ANY SOW. HYLAND AND ITS SUPPLIERS DISCLAIM AND EXCLUDE ANY AND ALL OTHER EXPRESS, IMPLIED AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF GOOD TITLE, WARRANTIES AGAINST INFRINGEMENT, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES THAT MAY ARISE OR BE DEEMED TO ARISE FROM ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. HYLAND AND ITS SUPPLIERS DO NOT WARRANT THAT ANY MAINTENANCE AND SUPPORT, PROFESSIONAL SERVICES, SOFTWARE OR WORK PRODUCTS PROVIDED WILL SATISFY CUSTOMER’S REQUIREMENTS OR ARE WITHOUT DEFECT OR ERROR, OR THAT THE OPERATION OF ANY SOFTWARE OR ANY WORK PRODUCTS PROVIDED UNDER THIS AGREEMENT WILL BE UNINTERRUPTED. HYLAND DOES NOT ASSUME ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY THIRD PARTY HARDWARE, FIRMWARE, SOFTWARE OR SERVICES.

(b) CUSTOMER SPECIFICALLY ASSUMES RESPONSIBILITY FOR THE SELECTION OF THE SOFTWARE, WORK PRODUCTS, MAINTENANCE AND SUPPORT AND PROFESSIONAL SERVICES TO ACHIEVE ITS BUSINESS OBJECTIVES.

(c) HYLAND MAKES NO WARRANTIES WITH RESPECT TO ANY SOFTWARE OR WORK PRODUCTS USED IN ANY NON-PRODUCTION SYSTEM AND PROVIDES ANY SUCH SOFTWARE AND WORK PRODUCTS "AS IS."

(d) No oral or written information given by Hyland, its agents, or employees shall create any additional warranty. No modification or addition to the limited warranties set forth in this Agreement is authorized unless it is set forth in writing, references this Agreement, and is signed on behalf of Hyland by a corporate officer.
8. LIMITATIONS OF LIABILITY.

8.1 EXCEPT AS PROVIDED IN SECTION 8.3 BELOW, IN NO EVENT SHALL EITHER PARTY (INCLUDING, IN THE CASE OF HYLAND, ITS SUPPLIERS), BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST SAVINGS, BUSINESS INTERRUPTION DAMAGES OR EXPENSES, THE COSTS OF SUBSTITUTE SOFTWARE, WORK PRODUCTS OR SERVICES, LOSSES RESULTING FROM ERASURE, DAMAGE, DESTRUCTION OR OTHER LOSS OF FILES, DATA OR PROGRAMS OR THE COST OF RECOVERING SUCH INFORMATION, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES.

8.2 EXCEPT AS PROVIDED IN SECTION 8.3 BELOW, HYLAND’S AND ITS SUPPLIERS’ LIABILITY FOR ANY CLAIMS, LOSSES OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE PERFORMANCE OR NON-PERFORMANCE OF SERVICES OR THE USE OR INABILITY TO USE SOFTWARE OR ANY WORK PRODUCTS, SHALL IN NO EVENT EXCEED (1) IN ANY INDIVIDUAL CASE, THE AMOUNT THAT HAS BEEN ACTUALLY PAID BY CUSTOMER TO HYLAND UNDER THIS AGREEMENT OR APPLICABLE SOWS WITH RESPECT TO THE TRANSACTION TO WHICH SUCH CLAIMS, LOSSES OR DAMAGES ARE RELATED; AND (2) IN THE AGGREGATE, THE LESSER OF (1) $1,000,000.00; OR (2) THE AGGREGATE OF ALL SOFTWARE LICENSE FEES, PROFESSIONAL SERVICES FEES, TRAINING REGISTRATION FEES AND ANNUAL MAINTENANCE FEES PAID BY CUSTOMER TO HYLAND UNDER THIS AGREEMENT DURING THE PERIOD OF UP TO THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS DURING THE TERM OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL MICROSOFT CORPORATION, AS A SUPPLIER TO HYLAND OF THIRD PARTY SOFTWARE BUNDLED WITH THE SOFTWARE LICENSED UNDER THIS AGREEMENT, BE LIABLE FOR ANY DIRECT DAMAGES IN EXCESS OF FIVE DOLLARS ($5.00).

8.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE LIMITATIONS OF SECTIONS 8.1 AND 8.2 ABOVE, AS APPLICABLE, SHALL NOT APPLY WITH RESPECT TO ANY CLAIMS, LOSSES OR DAMAGES ARISING OUT OF THE RESPONSIBLE PARTY’S BREACH OF SECTION 9 OF THESE GENERAL TERMS AND CONDITIONS (CONFIDENTIAL INFORMATION), ANY CLAIMS, LOSSES OR DAMAGES OF THIRD PARTIES THAT ARE SUBJECT TO THE RESPONSIBLE PARTY’S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, OR ANY CLAIMS, LOSSES OR DAMAGES ARISING OUT OF CUSTOMER’S BREACH OF SECTION 3.2 OR 3.3 OF THESE GENERAL TERMS AND CONDITIONS.

9. CONFIDENTIAL INFORMATION.

9.1 “Confidential Information” shall be such information that is marked “Proprietary” or “Confidential,” that is known by the recipient to be confidential or that is of such a nature as customarily would be confidential between business parties, except as provided in the next sentence. Confidential Information shall not include information that: (a) is or becomes generally known to the public without breach of this Agreement by the recipient, or (b) is demonstrated by the recipient to have been in the recipient’s possession prior to its disclosure by the disclosing party, or (c) is received by the recipient from a third party that is not bound by restrictions, obligations or duties of non-disclosure to the disclosing party, or (d) is demonstrated by recipient to have been independently developed without breach of its obligations.

9.2 Each party agrees that, with respect to the Confidential Information of the other party, during the term of Section 3 of these General Terms and Conditions and for a period of five (5) years thereafter (or in the case of any Confidential Information of a disclosing party that is a “trade secret”, during the term of Section 3 of these General Terms and Conditions and for a period of the longer of five (5) years or so long as such information remains a “trade secret” under applicable law) thereafter, such party as a recipient shall at all times maintain the confidentiality of the other party’s Confidential Information, using the same degree of care that such party uses to protect its own confidential information, but in any event not less than reasonable care; and shall not use (except in performance of this Agreement) or disclose to any third party any such Confidential Information, except as may be required by law or court order. Each party shall be liable and responsible for any breach of this Section 9 committed by any of such party’s employees, agents, consultants, contractors or representatives.

10. TERM; TERMINATION; SURVIVAL OF PROVISIONS AFTER EXPIRATION OR TERMINATION.

10.1 TERM.

(a) Term Generally. This Agreement shall have a term commencing on the Effective Date and shall continue in full force and effect unless and until terminated in accordance with any of the provisions of Section 10.2 or any other provision of this Agreement which expressly provides rights of termination or non-renewal.
10.2 TERMINATION.

(a) Customer may terminate this Agreement or a SOW, in whole or in part, for any reason or for no reason, upon not less than thirty (30) days advance written notice to Hyland to such effect.

(b) Either party may terminate this Agreement or a SOW, in each case in its entirety, effective immediately upon written notice to the other party, if the other party has committed a breach of a material provision of this Agreement or such SOW and has failed to cure the breach within thirty (30) days after the receipt of written notice of the breach given by the non-breaching party; provided, that Hyland shall not be required to give Customer any opportunity to cure any breach of any of the provisions of Section 3.2(f) or any action taken by Customer which is inconsistent with or in conflict with the provisions of Section 3.3, both of which are considered for all purposes to be material provisions of this Agreement.

10.3 CERTAIN EFFECTS OR CONSEQUENCES OF TERMINATION; SURVIVAL OF CERTAIN PROVISIONS.

(a) Software, Work Products and Documentation. Upon any termination of this Agreement in its entirety, any license to use the Software and Work Products will automatically terminate without other or further action on the part of any party; and Customer shall immediately: (1) discontinue any and all use of the Software, Work Products and Documentation; and (2) either (A) return the Software, Work Products and Documentation to Hyland, or (B) with the prior permission of Hyland, destroy the Software, Work Products and Documentation and certify in writing to Hyland that Customer has completed such destruction. The licenses granted under Section 3 shall not terminate in the event either party elects not to renew Maintenance and Support in accordance with Section 5.7.

(b) Generally. Any termination will not discharge or otherwise affect any pre-termination obligations of either party existing under this Agreement or an applicable SOW at the time of termination; and all liabilities which have accrued prior to the date of termination shall survive. In the event of any termination of a SOW, Customer agrees to compensate Hyland for all Professional Services already performed prior to, and including, the date of termination, except to the extent that Hyland has breached its obligations to perform such Professional Services and such breach is the cause of such termination. In the event that Customer terminates this Agreement for cause due to Hyland’s breach, Customer shall be entitled to a pro rata refund of annual maintenance fees actually paid for the maintenance period which terminates as a result of such termination (the “unused portion of annual maintenance fees”).

(c) Survival of Certain Obligations. All provisions of this Agreement or of an applicable SOW, which by their nature extend beyond the expiration or termination of this Agreement will survive and remain in effect until all obligations are satisfied, including, but not limited to, Sections 3.3, 3.5, Section 6, Section 7, Section 8, this Section 9 and Section 11.

11. FORCE MAJEURE. No failure, delay or default in performance of any obligation of a party to this Agreement (except the payment of money) shall constitute a default or breach to the extent that such failure to perform, delay or default arises out of a cause, existing or future, beyond the control (including, but not limited to: action or inaction of governmental, civil or military authority; fire; strike, lockout or other labor dispute; flood; war; riot; theft; earthquake; natural disaster or acts of God; national emergencies; unavailability of materials or utilities; sabotage; viruses; or the act, negligence or default of the other party) and without negligence or willful misconduct of the party otherwise chargeable with failure, delay or default. Either party desiring to rely upon any of the foregoing as an excuse for failure, default or delay in performance shall, when the cause arises, give to the other party prompt notice in writing of the facts which constitute such cause; and, when the cause ceases to exist, give prompt notice of that fact to the other party. This Section 11 shall in no way limit the right of either party to make any claim against third parties for any damages suffered due to said causes. If any performance date by a party under this Agreement is postponed or extended pursuant to this Section 11 for longer than ninety (90) calendar days, the other party, by written notice given during the postponement or extension, and at least thirty (30) days prior to the effective date of termination, may terminate this Agreement.

12. GENERAL PROVISIONS.

12.1 GOVERNING LAW. This Agreement and any claim, action, suit, proceeding or dispute arising out of this Agreement shall in all respects be governed by, and interpreted in accordance with, the substantive laws of the State of Washington (and not the 1980 United Nations Convention on Contracts for the International Sale of Goods, as amended), without regard to the conflicts of laws provisions thereof.

12.2 INTERPRETATION. The headings used in this Agreement are for reference and convenience purposes only and shall not in any way limit or affect the meaning or interpretation of any of the terms hereof. All defined terms in this Agreement shall be deemed to refer to the masculine, feminine, neuter, singular or plural, in each instance as the context or particular facts may require. Use of the terms “hereunder,” “herein,” “hereby” and similar terms refer to this Agreement.
12.3 **WAIVER.** No waiver of any right or remedy on one occasion by either party shall be deemed a waiver of such right or remedy on any other occasion.

12.4 **INTEGRATION.** This Agreement, including any and all exhibits and schedules referred to herein and any SOWs, set forth the entire agreement and understanding between the parties pertaining to the subject matter and merges all prior agreements, negotiations and discussions between them on the same subject matter. This Agreement may only be modified by a written document signed by duly authorized representatives of the parties. This Agreement shall not be supplemented or modified by any course of performance, course of dealing or trade usage. Customer and Hyland specifically acknowledge and agree that any other terms varying from or adding to the terms of this Agreement, whether contained in any purchase order or other electronic, written or oral communication made from Customer to Hyland are rejected and shall be null and void and of no force or effect, unless expressly agreed to in writing by both parties. This Agreement will prevail over any conflicting stipulations contained or referenced in any other document.

12.5 **NOTICES.** Unless otherwise agreed to by the parties in a writing signed by both parties, all notices required under this Agreement shall be deemed effective: (a) when sent and made in writing by either (1)(A) registered U.S. mail, (B) certified U.S. mail, return receipt requested, or (C) reputable, national overnight courier, in any such case addressed and sent to the address set forth herein and to the attention of the person executing this Agreement on behalf of that party or that person’s successor, or to such other address or such other person as the party entitled to receive such notice shall have notified the party sending such notice of; or (2) facsimile transmission appropriately directed to the attention of the person identified as the appropriate recipient and at the appropriate address under (a)(1) above, with a copy following by one of the other methods of notice under (a)(1) above; or (b) when personally delivered and made in writing to the person and address identified as appropriate under (a)(1) above.

12.6 **BINDING EFFECT; NO ASSIGNMENT.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. Neither party may assign, transfer or sublicense all or part of this Agreement or its rights or obligations under this Agreement, in whole or in part, to any other person or entity without the prior written consent of the other party; provided that such consent shall not be unreasonably withheld in the case of any assignment or transfer by a party of this Agreement in its entirety to the surviving entity of any merger or consolidation or to any purchaser of substantially all of such party’s assets that assumes in writing all of such party’s obligations and duties under this Agreement. Any assignment made without compliance with the provisions of this Section 12.6 shall be null and void and of no force or effect.

12.7 **SEVERABILITY.** In the event that any term or provision of this Agreement is deemed by a court of competent jurisdiction to be overly broad in scope, duration or area of applicability, the court considering the same will have the power and is hereby authorized and directed to limit such scope, duration or area of applicability, or all of them, so that such term or provision is no longer overly broad and to enforce the same as so limited. Subject to the foregoing sentence, in the event any provision of this Agreement is held to be invalid or unenforceable for any reason, such invalidity or unenforceability will attach only to such provision and will not affect or render invalid or unenforceable any other provision of this Agreement.

12.8 **SUBCONTRACTING.** Hyland may subcontract all or any part of the services only with the prior written consent of Customer, which consent shall not be unreasonably withheld. Hyland shall remain responsible to Customer for the provision of any subcontracted services.

12.9 **INDEPENDENT CONTRACTOR.** The parties acknowledge that Hyland is an independent contractor and that it will be responsible for its obligations as employer for those individuals providing any services.

12.10 **EXPORT.** The Software, Work Products and Documentation are subject to United States export control laws and regulations. Customer agrees to comply fully with all relevant regulations of the U.S. Department of Commerce and all U.S. export control laws, including, but not limited to, the U.S. Department of Commerce Export Administration Regulations (EAR), to assure that the Software, Work Products or Documentation is not exported in violation of United States of America law. Customer agrees that it will not export or re-export the Software, Work Products or Documentation to any organizations or nationals in the territories of Cuba, Iran, Iraq, North Korea, Burma (Myanmar), Sudan, Syria or any other territory or nation with respect to which the U.S. Department of Commerce, the U.S. Department of State or the U.S. Department of Treasury maintains any commercial activities sanctions program. Customer shall not use the Software or Documentation for any prohibited end uses under applicable United States laws and regulations, including but not limited to, any application related to, or purposes associated with, nuclear, chemical or biological warfare, missile technology (including unmanned air vehicles), military application or any other use prohibited or restricted under the U.S. Export Administration Regulations (EAR) or any other relevant laws, rules or regulations of the United States of America.

12.11 **INJUNCTIVE RELIEF.** The parties to this Agreement recognize that a remedy at law for a breach of the provisions of this Agreement relating to Confidential Information and intellectual property rights will not be adequate for the aggrieved party’s
protection and, accordingly, the aggrieved party shall have the right to seek, in addition to any other relief and remedies available to it, specific performance or injunctive relief to enforce the provisions of this Agreement.

12.12 **MARKETING AND PUBLICITY.** With the prior approval of the other party, which approval will not be unreasonably withheld or delayed, each party may:

(a) **References and Site Visits.** From time to time, upon the reasonable request of Hyland, Customer agrees to make one or more employees available: (i) for telephone interviews with Hyland and/or third parties, relating to Hyland, the Software, Customer’s use of the Software, the benefits Customer has derived from the Software or similar topics, and (ii) to participate in customer site visits. Hyland agrees that it shall reimburse Customer for any out-of-pocket travel, lodging, registration and meals costs and expenses that are incurred by any such employees of Customer in connection with any off-site visit if applicable, provided that such costs and expenses are reimbursable in accordance with Hyland’s expense reimbursement policies.

(b) **Press Release.** Prepare and issue a press release referring to the other party and relating to the signing of this Agreement, the scope of the relationship and the Software solution established under this Agreement.

(c) **Case Studies.** Prepare, publish and distribute, for its sales, marketing and advertising purposes, one or more case studies describing any or all of the applications for which the Software will be used by Customer (e.g., Accounts Payable).

(d) **Limitations.** Except as specifically set forth in paragraphs (a) through (c) above, or as necessary to perform its obligations under this Agreement, neither party shall, without the prior written consent of the other party, use the names, services marks or trademarks of such other party nor the name of any employee of such other party, or reveal the existence of or terms of this Agreement, in any advertising or publicity release or promotional literature.

12.13 **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, all of which when taken together shall constitute one and the same instrument.

12.14 **EXPENSES.** Except as otherwise specifically provided herein, each party shall bear and pay its own expenses incurred in connection with this Agreement and the transactions contemplated hereby.

12.15 **THIRD PARTIES.** Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties hereto, any rights or remedies by reason of this Agreement; provided, however, that third party suppliers of software products bundled with the Software are third party beneficiaries to this Agreement as it applies to their respective software products.
ATTACHMENT B

TECHNICAL SUPPORT INFORMATION

The technical support telephone lines, technical support email addresses and secure end user websites currently maintained by Hyland are as follows:

For the SIRE™ Software:
Technical Support Line: currently 801-415-0626
Technical Support e-mail address: currently support@siretechnologies.com
Secure End User Website: currently http://siretechnologies.com
Hours: Excluding holidays, during the hours of 6:00 a.m. to 6:00 p.m., USA Mountain Standard Time, Monday through Friday

Hyland may, from time to time, change the applicable technical support hours, technical support telephone line, technical support email address or secure end user website to be used by Customer in connection with Hyland’s Software products.
STATEMENT OF WORK

This Statement of Work ("SOW") is made and entered into as of the date this SOW is signed by the last party that signs (as determined based upon the dates set forth after their respective signatures), by and between:

Hyland Software, Inc.                              Whatcom County
28500 Clemens Road                                  311 Grand Avenue, Suite 503
Westlake, OH 44145                                   Bellingham, WA 98225
"Hyland"                                              "Customer"

and is entered into under and pursuant to that certain Master Software License, Services and Support Agreement dated on or about _____________, 2013, between Hyland and Customer (the "Master Agreement"). All Services provided pursuant to or described in this SOW are subject to and governed by all applicable provisions of the Master Agreement. Capitalized terms used herein and not defined shall have the meanings given to them in the Master Agreement.

1. Overview:

Hyland will provide the Services to Customer as described in the Services Proposal attached to this SOW as Exhibit A in connection with Customer’s use of the Software.

2. Compensation & Payment Schedule:

After execution of this SOW by the parties, Hyland will provide the Services described in this SOW at a time and on a schedule that is mutually agreed upon by the parties. The parties agree that any Services or Work Products described in this SOW that have been performed or developed, in whole or in part, prior to the execution of this SOW by the parties nevertheless shall be covered by all terms and conditions of this SOW.

Hyland will charge Services Fees to Customer for the Services under this SOW determined on a fixed price basis as described in Exhibit A. Additionally, Hyland will charge Customer travel and expenses. Payment in full will be due net thirty (30) days after invoice date.

The fixed price was determined based on information provided to Hyland by Customer and assumptions developed by the parties based upon that information. In the event that (a) any such information is inaccurate or necessary information was not provided to Hyland, (b) Customer fails to fulfill its obligations during this SOW, or (c) reasonably unforeseen technical or system limitations exist or arise, and any of such causes materially and adversely affect the performance of the Services, Hyland will promptly notify Customer in writing of the circumstances affecting Hyland’s ability to perform services. This fixed price shall be adjusted equitably to reflect the impacts of such circumstances as agreed upon in writing between the parties.

IN WITNESS WHEREOF, the undersigned have mutually agreed upon and enter into this SOW as of the day and year first above written.

WHATCOM COUNTY                                      HYLAND SOFTWARE, INC.
By:                                                   By:

Name (Print):                                          Name (Print):

Title:                                                Title:

Date:                                                  Date:

Copyright © 2013 Hyland Software, Inc.  1 of 2
EXHIBIT A
SERVICES PROPOSAL
HYLAND
SOFTWARE

PROFESSIONAL
SERVICES
PROPOSAL

County of Whatcom,
WA

DOCUMENT VERSION : 1

DOCUMENT DATE : 1-May-2013

THIS PROPOSAL IS VALID FOR A
PERIOD OF 90 DAYS FROM THE
ABOVE DATE.

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All Rights Reserved

Information in this document is subject to change and does not represent a commitment on the part of Hyland Software, Inc.® until attached
to a services contract.

The information contained in this document is confidential and proprietary to Hyland Software, Inc.®. It is provided solely for the use of
County of Whatcom, WA to describe the approach and work being proposed. This information may not be used for any other purpose and
may not be further distributed. Any recipient of this document who is unwilling to agree to these conditions should return the document to
Hyland Software, Inc.® without reviewing the contents or making further distribution. Review of this document shall constitute agreement to
the restrictions stated above.

RFS# 6989071 (a Hyland Software internal request tracking number)
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INTRODUCTION

The purpose of this document is to define the goals, scope, and important details supporting the delivery of professional services related to one or more projects defined in the Project Areas section. This document is used by Hyland Software to provide services estimates applicable to the current stage of a project.

PROPOSAL TERMS & USAGE

Hyland Software, Inc.® ("Hyland") is pleased to provide the following estimate for professional services related to the use of the SIRE Software ("Software") for County of Whatcom ("Customer") as shown in the Description of Services section of this document.

This proposal describes the services offered to Customer in conjunction with the use of the Software for Customer. The content of this document is subject to review and revision by both Hyland and Customer. After this proposal has been mutually reviewed and agreed to by both Hyland and Customer, this proposal will be attached to a services contract and delivered to Customer for review and signature.

Once executed by both Hyland and Customer, the Hyland solution delivery team will contact Customer project team to discuss project logistics and potential start dates. Once a project start date has been determined, resources will be assigned and scheduled to begin delivery of the services described in this proposal.
PROJECT AREAS

Project 1 ~ SIRE E-REET Portal Solution

Scope
The scope of this project includes:

- Installation of the Software system, including:
  - SIRE E-REET/Recording Server Core;
  - SIRE Active Review Enterprise;
  - SIRE Electronic Document Management Concurrent User Licenses (5);
  - SIRE Capture station (1);
  - Reporting Service (Uses MS-SQL Reporting); and
  - E-REET Import Processor.
- Configuration of one (1) SIRE Capture station;
- Configuration of one (1) SIRE E-REET Cabinet and associated metadata fields;
- Installation of one (1) preconfigured E-REET Form to use in the Active Review Portal submission process;
- Installation of one (1) preconfigured E-REET Workflow;
- Creation of one (1) Custom Report;
- Creation of one (1) XML export file (using PRIA Standard format) to use for communication to County Auditor Recording vendor (EXIGENT);
- Ability to ingest one (1) XML file (using PRIA Standard format) response from EXIGENT;
- Creation of one (1) URL command to be used to retrieve documents from PACS;
- Configuration of standard Active Review Portal for public access and submission;
- Configuration of Active Review bulk submission, using standard format for the SIRE E-REET Import Utility; and
- Delivery of the following training:
  - SIRE E-REET/e-Recording County User Training (two (2) days);
  - SIRE E-REET/e-Recording Administrative Training (two (2) days);
  - SIRE Active Review Workflow Training (two (2) days);
  - SIRE Active Review Forms Training (two (2) days); and
  - SIRE Capture Scanner Training (one (1) day).

Services
Project Management, Implementation Services, Training

Deliverables
Software Solution, Reference Materials, Training and Materials
Assumptions
This proposal is based upon the below assumptions being true. If for some reason these assumptions prove not to be true, this could result in a scope change and may have an impact on the proposed cost and timeline to deliver.

- That Customer will commit adequate working hours per day to testing the Solution during the Customer Testing Support phase, which may be performed by multiple Customer personnel;
- Hyland estimates seventy two (72) hours for the training phase. Customer may request additional hours for such service under a future agreement;
- Hyland estimates sixteen (16) hours for the Customer testing support phase. Customer may request additional hours for such service under a future agreement;
- Hyland estimates eight (8) hours for the go live support phase. Customer may request additional hours for such service under a future agreement;
- One (1) prototype review is estimated for the proposal. Additional prototype reviews may be requested by the Customer and are not included in this proposal;
- Solution includes standard E-REET workflow, with less than eight (8) hours of customer requested modifications; Customer may request additional hours for such service under a future agreement;
- XML files created by SIRE will use the PRIA Standard format;
- XML files ingested by SIRE will be provided by EXIGENT in the PRIA Standard format;
- The SIRE Active Review workflow process begins with the E-REET submission to SIRE by the submitter;
- E-REET submissions given in person will not go through the SIRE E-REET Active Review process. These documents will be manually validated and scanned for storage into the SIRE E-REET Cabinet;
- SIRE will provide a standard URL configuration format to Customer for retrieval of SIRE documents from PACs;
- Customer has knowledge, experience and resources to make any changes necessary directly to PAC’s – True Automation system to develop and provide web service required to retrieve documents stored in SIRE via PACS;
- File format for E-REET import processor meets all requirements for default/standard functionality;
- Active Review portal is the standard/default layout;
- The Custom Report consists only of data from the SIRE E-REET solution and SIRE database;
- A single document stamp (based on document receipt) will be used across all documents and document types;
- All annotations and markups use default/standard functionality;
- Payment processing is not included in the scope of this project; and
- Auto-Indexing is not included in the scope of this project;
Project 2 – REET Document Conversion

Scope
The scope of this project includes:
• Conversion of existing REET documents stored in Laserfiche to SIRE using the XML Loader utility;
• Use of the XML Loader for Historical REET documents from Laserfiche; and
• Creation of SIRE Pub link to replace current Laserfiche link in customer’s public website.

Services
Project Management, Implementation Services, Conversion Services

Deliverables
Reference Materials, Conversion Validation Report

Assumptions
This proposal is based upon the below assumptions being true. If for some reason these assumptions prove not to be true, this could result in a scope change and may have an impact on the proposed cost and timeline to deliver.
• Customer will commit a minimum of eight (8) working hours per day to testing the Solution during the Customer Testing Support phase, which may be performed by multiple Customer personnel;
• Hyland estimates four (4) hours for configuration of out of the box SIRE Pub website for public document retrieval. Customer may request additional hours for such service under a future agreement;
• Hyland estimates four (4) hours for the training phase. Customer may request additional hours for such service under a future agreement;
• Hyland estimates eight (8) hours for the Customer testing support phase. Customer may request additional hours for such service under a future agreement;
• Hyland estimates four (4) hours for the go live support phase. Customer may request additional hours for such service under a future agreement;
• Conversion will include one (1) bulk conversion and two (2) deltas, if necessary;
• Documents will be stored in the E-REET Cabinet (created in Project 1); and
• Current images and data maintained in Laserfiche will be exported by County Staff and provided in the agreed upon file format (preferably XML) to SIRE.
DESCRIPTION OF SERVICES

The types of services outlined below are included in one or more of the project areas covered in this services proposal, and are encompassed in Hyland's standard engagement methodology. Please refer to the specific project described in the Project Areas section of this document to determine which of these services are in scope for a particular project.

1. Discovery
Discovery services cover the requirements analysis and design of the Software solution(s) and include the following major activities:
   a. Project kickoff meeting;
   b. Discovery sessions with Customer subject matter experts from the business areas and technical experts from IT, interfaces and applications;
   c. Review and refinement of the solution requirements with Customer experts; and
   d. Sign off on Solution Requirement Document.

2. Implementation Services
Services include the implementation of a solution per agreed upon solution requirements which have been identified during the discovery phase.
   a. Configuration of the solution substantially in accordance with the mutually agreed upon documentation;
   b. Testing Software modules and/or functionality implemented, per solution requirements;
   c. User testing kick off;
   d. Issue support for solution testing;
   e. Creation of solution training materials;
   f. Creation of documentation for administrative use;
   g. Execution of administrative training specific to the solution and administration of Software;
   h. Preparation for Go Live; and
   i. Go Live support.
   j. Final Acceptance, which means thirty (30) days after completion of Go-Live support.

3. Legacy ECM Conversion Services
Conversion services help organizations replace their old EDM and imaging applications with Software, migrating data and documents from legacy ECM or imaging systems.
   a. Perform in-depth discovery to determine document metadata mappings, infrastructure requirements, tactical planning, and establish respective roles;
   b. Upon mutual agreement of the documents and document metadata to be converted, Hyland will prepare a data mapping document;
   c. Configure document type and keyword mappings between Software and Customer system according to the data mapping document;
d. Convert a representative sample of the documents, with associated metadata from Customer system to Software for the purpose of validating and verifying the integrity of the conversion process;

e. Extract, transform and load legacy system files and metadata into Software production system; and

f. Deliver verification reports accounting for all documents to be converted, stating any exceptions to the conversion process.

4. Project Management
Project Management services cover the overall coordination of Hyland team resources and general coordination of solution delivery. The Hyland Project Manager will:
    a. Provide supervisory project services to facilitate project scheduling, communicate project status and budget, update project issue log.
DESCRIPTION OF DELIVERABLES

The types of deliverables outlined below are included in one or more of the project areas covered in this services proposal, and are encompassed in Hyland's standard engagement methodology. Please refer to the specific project described in the Project Areas section of this document to determine which of these deliverables are in scope for a particular project.

1. **Software Solution:**
   a. The implementation of the requirements defined during discovery sessions with Customer.

2. **Reference Guide:**
   a. A technical reference document intended for Software solution administrators and IT management/support staff; and
   b. Guide contains the technical configuration details of a specific solution and is provided in both Microsoft Word and PDF formats.

3. **Training and Training Guide:**
   a. An end user training reference containing descriptions of the user interface ("UI") components configured for a specific solution;
   b. Intended to be republished by the Customer's internal software training/education staff to comply with internal training delivery requirements; and
   c. Guide is provided as a Microsoft Word document to allow Customer trainers to extract, modify or reformat the content as needed.

4. **Conversion Validation Report:**
   a. Signifies completion of activity on the conversion project;
   b. Final deliverable report with legacy system and converted Software document counts; complete reconciliation, accounting for 100% of documents; and
   c. Exception documents are noted along with specific reason for failure.
PRICING ESTIMATE

Customer acknowledges that the services estimated are based solely on the information provided to Hyland and referenced in the above project area(s).

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Estimate Type</th>
<th>Amount</th>
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<tbody>
<tr>
<td>SIRE E-REET Portal Solution</td>
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<td>REET Conversion</td>
<td>Fixed Fee</td>
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The pricing estimate described above represents a fixed price services engagement, plus travel and expenses. This is a fixed fee contract with payment milestones as identified below. Payment milestones for this engagement will be invoiced as follows:

Payment Milestone 1:
- $22,950.00 of the total fixed price will be invoiced by Hyland to Customer upon sign off on Solution Requirement Document.

Payment Milestone 2:
- $6,750.00 of the total fixed price will be invoiced by Hyland to Customer upon the completion of the REET Document Conversion.

Payment Milestone 3:
- $22,950.00 of the total fixed price will be payable by Customer to Hyland upon Final Acceptance.

Travel and Expenses:
- Travel and expenses will be invoiced by Hyland to Customer on a monthly basis, with a final invoice upon final completion of the applicable services under this proposal.
- Mileage is charged at a rate equal to the IRS rate in effect at the time the expense is incurred. Meals and lodging reimbursements shall not exceed GSA approved rates for Bellingham area. Airfare reimbursements will be at coach rates. Copies of receipts are required for reimbursement of expenses other than mileage. Whatcom County does not reimburse the cost of alcoholic beverages.
KEY ASSUMPTIONS

The cost estimates were created using the following assumptions:

a. Hyland provides train-the-trainer services. Customer is responsible for the training of Customer’s end users;

b. Customer will have a system administrator that will or has attended system administrator training for the Software, and will participate actively in the entire project lifecycle for knowledge transfer. The Customer system administrator will support the Software environments and solutions at the completion of the project in conjunction with Hyland technical support per the Master Agreement;

c. Project start date(s) are subject to a mutually agreed upon schedule after execution of contract;

d. Travel for entire proposal will not exceed five (5) onsite trips with an accumulated maximum of seventeen (17) days onsite. Additional trips or days can be requested for an additional fee.

e. Each deliverable created during this project will use Hyland’s standard deliverable templates. Customer requested changes to the deliverable template may increase project costs or introduce timeline delays; and

f. Onsite or remote access to Whatcom County information technologies will be restricted to personnel who have successfully passed a background check conducted by the Whatcom County Sheriff’s Office, provided that in each such case the individual employee must consent to such background check being performed. Further, Whatcom County acknowledges and agrees that Hyland is not responsible for a delay in the provision of services under this SOW which occur as a result of the need to complete any such background check(s).
CUSTOMER RESPONSIBILITIES/OBLIGATIONS

To facilitate Hyland’s performance of the above services, Customer agrees, at a minimum, to provide the following:

Network Environment:
- A properly configured processing environment;
- All necessary components including, but not limited to, power, lighting, network connections and environment controls deemed necessary for the proper functioning of the system;
- Installation and support of all hardware and operating, database, and application software; and
- Customer will provide systems access and include third-party vendors or subject /technical matter experts as required.

Personnel:
- Collaboration with Hyland resources on the project schedule deliverable;
- Coordination of key departmental decision maker(s), subject matter expert(s), end-user representative(s), third party software application resources, project team representative(s) related to the project area, steering committee, project sponsorship;
- Facilitate timely decision making and resolution of issues;
- Coordination of Customer resources for the testing and regression testing cycles of the configured Software solution;
- Tracking and reporting test results;
- Arrange for physical workspace and tools (desks, meeting rooms, training rooms, conference phones, etc.) for duration of the project to accommodate scheduled onsite activities;
- Availability of Customer’s business process owners;
- Availability of Customer’s technical resources responsible for the Software;
- At least one (1) Information Services (“IS”) / Information Technology (“IT”) representative to assist with the installation with regards to network and system administration;
- At least one (1) Software Administrator to assist in establishing network rights to appropriate disk groups on Customer’s file servers for Customer’s users; and
- Availability of Customer’s resource to coordinate the above listed resources.

The parties acknowledge and agree that the absence of the foregoing environment or personnel may result in the delay of the performance and completion of the services.

*** END OF DOCUMENT ***
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td></td>
<td>7/23/13</td>
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<td>Dept. Head:</td>
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<td>Prosecutor:</td>
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<td>7/14/13</td>
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<td></td>
<td>7/16/13</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:** DLR Group Contract Amendment #3

**ATTACHMENTS:**
- Cover memo
- Contract Amendment with Attachment A

**SEPA review required?** ( ) Yes ( ) NO
**SEPA review completed?** ( ) Yes ( ) NO

**Should Clerk schedule a hearing?** ( ) 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.)

The Contract allows for the development of the pre-design and schematic design work for the Courthouse Courtroom Renovation Project and a Feasibility Study for Holding/Release for the Adult Corrections Facility.

**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.
WHATCOM COUNTY CONTRACT
INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Executive Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Dewey Desler/Tawni Helms</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>DLR Group</td>
</tr>
</tbody>
</table>

Is this a New Contract? Yes __ No __
If not, is this an Amendment or Renewal to an Existing Contract?
Yes ___ No __ If yes, previous number(s): ____________

Is this a grant agreement? Yes ___ No ____________
If yes, grantor agency contract number(s) ____________
CFDA number ____________

Is this contract grant funded? Yes ___ No ____________
If yes, associated Whatcom County grant contract number(s) ____________

Is this contract the result of a RFP or Bid process? Yes ___ No ____________
If yes, RFP and Bid number(s) RFQ 12-50 ____________
Contract Cost Center: 345100

Is this contract excluded from E-Verify? Yes ___ No ____________
If yes, indicate qualified exclusion(s) below:
__ Contract less than $100,000. __ Professional services agreement for certified/licensed professional
__ Work is for less than 120 days __ Contract for Commercial off the shelf items (COTS)
__ Interlocal Agreement (between Govt.) __ Public Works Dept. - Local Agency/Federally Funded FHWA

Contract Amount: (sum of orig contract amount and any prior amendments)
__ $491,902.00 ____________

This Amendment Amount: __ $257,000.00 ____________

Total Amended Amount: __ $748,902.00 ____________

If a Professional Services Agreement is more than $15,000 or a Bid is more than $35,000, please submit an Agenda Bill for Council approval and a supporting memo. Any amendment that provides either a 10% increase in amount or more than $10,000, whichever is greater, must also go to Council and will need an agenda bill and supporting memo. If less than these thresholds, just submit to Executive with supporting memo for approval.

Scope of Services: Supplemental services are necessary to fulfill the contractual obligations of the contract. Contractor has agreed to develop the pre-design and schematic design work for the Courthouse Courtroom renovation project and a Feasibility Study for Holding/Release facility for the Adult Corrections Facility and Sheriff's Department Headquarters, Whatcom County.

Term of Contract: 8 months Expiration Date: September 27, 2013

Contract Routing Steps & Signoff: [sign or initial] [indicate date transmitted]
1. Prepared by: Twh Date 6/24/13 [electronic]
2. Attorney reviewed: gallery Date 7/5/13 [electronic]
3. AS Finance reviewed: brench Date 7/16/13 [electronic]
4. IT reviewed if IT related ____________ Date ____________ [electronic]
5. Corrections made: ____________ Date ____________ [electronic] hard copy printed
6. Attorney signoff: LG Date 7/16/13
7. Contractor signed: ____________ Date ____________
8. Submitted to Exec Office ____________ Date 7/16/13 [summary via electronic; hardcopies]
9. Council approved (if necessary) ____________ Date ____________
10. Executive signed: ____________ Date ____________
11. Contractor Original Returned to dept: ____________ Date ____________
12. County Original to Council ____________ Date ____________ this form may need to expand to more than one page
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Tawni Helms, Administrative Services Coordinator

RE: Jail Planner Contract

DATE: June 24, 2013

Enclosed are two (2) originals of a contract amendment between Whatcom County and DLR Group for your review and signature.

- Background and Purpose
  Last August, following the recommendations of the Jail Task Force, Whatcom County posted a "Request for Qualifications" (12-50) for a Jail Planner. Resulting from a thorough selection process, DLR Group was chosen to provide engineering and architectural work for the jail planning process.

Courthouse Renovation and Jail Holding/Release Feasibility:
The Contractor has agreed to develop the pre-design and schematic design work for the Courthouse Courtroom renovation project and a Feasibility Study for Holding/Release facility for the Adult Corrections Facility and Sheriff’s Department Headquarters, Whatcom County. The design and feasibility work is more clearly defined in Attachment “A”.

- Funding Amount and Source
  Council approved for this contract amendment though 2013 Supplemental Budget #7 (Ordinance 2013-032). The funding for this contract amendment will come from two different funds as described below.

Funding source for the Jail Facility holding/release feasibility study is the Jail Fund.
Cost Center 118198. $ 57,000.

Funding source for the Courthouse Courtroom Renovation Project is the General Fund.
Cost Center 4530 $200,000.

Please contact Tawni Helms at extension 50124, if you have any questions or concerns regarding the terms of this agreement.
Amendment No. 3
Whatcom County Contract No. 201301018
CONTRACT BETWEEN WHATCOM COUNTY AND
DLR Group

THIS AMENDMENT is to the Contract between Whatcom County and DLR Group, dated January 30, 2013, and designated "Whatcom County Contract No. 201301018". In consideration of the mutual benefits to be derived, the parties agree to the following:

This Amendment increases the maximum consideration by $257,000. to a total consideration of $748,902.00. Fund sources for the supplemental services are as follows:

| General Fund                  | Pre-design/Schematic Courtroom Renovation | $200,000. |
| Jail Fund                     | Feasibility Study hold/release facility   | $57,000.  |
|                               |                                           | $257,000. |

This Amendment also adds the following to the Scope of Work, Exhibit A and more clearly defined in Attachment A:

Additional work includes Pre-design and schematic design for Courthouse Courtroom Renovation Project and Feasibility Study for Holding/Release facility for the Adult Corrections Facility and Sheriff’s Department Headquarters, Whatcom County.

Contractor will invoice the County separately for the projects listed above. Each invoice must be marked clearly with the associated project name.

Unless specifically amended by this agreement, all other terms and conditions of the original contract shall remain in full force and effect.

This Amendment takes effect: July 29, 2013, regardless of the date of signature.

IN WITNESS WHEREOF, Whatcom County and DLR Group have executed this Amendment on the date and year below written.

DATED this _____________ day of ________________, 2013.

CONTRACTOR:

CONTRACTOR

BILL VALDEZ, PRINCIPAL IN THE FIRM

STATE OF WASHINGTON  
)
)
COUNTY OF WHATCOM  
)

On this ___ day of ________, 2013, before me personally appeared Bill Valdez to me known to be the Principal of the DLR Group and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

__________________________
NOTARY PUBLIC in and for the State of Washington, residing at
___________________________. My commission expires _____________.

202
WHATCOM COUNTY:

Approved as to form:

[Signature] 7/16/13
Chief Civil Deputy Prosecutor  Date

Approved:
Accepted for Whatcom County:

By: _____________________________
    Jack Louws, Whatcom County Executive

STATE OF WASHINGTON  
COUNTY OF WHATCOM  

On this _____ day of ____________________, 20___, before me personally appeared Jack Louws, to me known to be the Executive of Whatcom County, who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of Washington, residing at __________________. My commission expires ____________________

CONTRACTOR INFORMATION:

DLR GROUP
901 Fifth Avenue
Suite 700
Seattle, WA 98164

Contact Name: Bill Valdez
Contact Phone: 206-461-6000
Contact FAX: 206-461-6049
May 13, 2013

Michael Russell
Facilities Manager
Whatcom County Facilities Management
316 Lottie Street
Bellingham, WA. 98225

Re: Project Name: Whatcom County Courthouse Courtroom Renovation
Whatcom County RFQ 12-23

Dear Michael:

This letter will serve as our proposal for Professional Services for the Whatcom County – Courthouse Courtroom Renovations in Bellingham, WA. The scope of services are based on retaining the same project team that was posed for the RFQ 12-23, which included DLR Group and King Architecture. The project scope is as follows and based on the facility tour of the project scope between Michael Russell, David King and Bill Valdez on May 9, 2013:

1. Renovation and creation of a new Superior Courtroom using the existing commissioner’s courtroom on the second floor as well as creation of juror lavatories and a new office for the courtroom assistant.
2. Renovation of a fifth floor conference room and surrounding area for a new commissioner’s courtroom.
3. Renovation of unfinished space on the 5th floor to make a commissioner’s chambers.
4. The County would also like to look at the Public Safety Building (PSB) and establish it’s feasibility use for office space and the practicality of using a portion of the PSB for a Holding/Release Facility or #5, Whichever is most efficient and economical for the County.
5. Remodeling a portion of the Courthouse basement that is unused and converting that space into a Holding/Release Facility.

The scope of services for the project is as follows:

A. Provide a complete and total evaluation of the projects, based on a thorough review of existing floor plans, building condition and create a functional program for the scope of work with a schedule for said work to be performed and completed.

B. Create a budget cost estimate for all phases of the work, and schedule based on construction of each project with escalation cost calculated for the different phasing of the projects. Courtrooms first phase and the Holding/Release Facility to be completed before the new jail’s construction is completed.

C. Produce preliminary architectural drawings, specifications, identification of structural, mechanical, electrical, acoustical, and all other consultant services necessary for completion of the project. Include all energy code requirements and all other applicable
code requirements that are anticipated to affect the project. The Courthouse is a LEED building and will need to maintain this rating.

D. Submit complete list of documents required to go to regulatory and permitting agencies as required by Authority Having Jurisdiction (AHJ).

E. Services will include Pre-design, Design, Specification, Drawings, Answering questions during the bidding process, Project management, Coordination and approvals of submittals, RFI’s, Change orders, weekly OAC meetings with field reports and meeting minutes and Project Closeout including record drawings, and 12 month warranty services.

F. Develop anticipated sequence of construction in a fully occupied building. Pre-design work is expected to be performed during normal daily operations however; construction is anticipated to take place after normal business hours of 8-5pm. With the understanding that Juvenile Detention located on the 6th floor cannot be disturbed after 10:00PM. (note that many construction and demolition activities will carry noise and vibration through the entire building)

G. Analysis of the operating impacts of the project, including staffing, operating and maintenance costs.

**Profession Services Scope:**

The fee for the Whatcom County – Courthouse Courtroom Renovations described above and inclusive of all direct labor costs, indirect labor costs, and other direct costs incurred by DLR Group and our consultants, is a lump sum amount of one hundred seventy-six thousand three hundred eighty-five and 00/100 ($176,385.00). The fee is derived based on the current Washington State Guidelines for Determining Architect/Engineer Fees for Public Works Building Projects.

Since the scope of the Holding/Release Facility is not fully defined and can drastically affect the scope of the project, DLR Group and King Architecture would recommend that Whatcom County only contract through Schematic Design Phase in the amount of fifty-five thousand eight hundred ten and 00/100 ($55,810.00) inclusive of all direct labor costs, indirect labor costs, and other direct costs incurred by DLR Group and our consultants. At the completion of Schematic Design Phase when the entire scope of the project is fully defined a scope of services and fee derived based on the current Washington State Guidelines for Determining Architect/Engineer Fees for Public Works Building Projects can be developed and amended to the contract.

Thank you for the opportunity to provide these professional services, and we look forward to our continued partnership with Whatcom County.

Sincerely,

**DLR Group**

William J. Valdez
Principal in the Firm
Encl:  Project Tracking Sheet
cc:   File
# DLR Group  
## PROJECT TRACKING SHEET

### PROJECT INFORMATION

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### PROJECT SCHEDULE

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#### INTERIOR & FF&E

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<th>DLR GROUP FEE</th>
<th>CONSULTANT FEE(s)</th>
<th>ARCHITECT ESTIMATE</th>
<th>CONST CONTRACT AMOUNT</th>
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# DLR Group Proposal Sheet

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<tbody>
<tr>
<td>Client Name</td>
<td>Whatcom County FMD</td>
</tr>
<tr>
<td>Point of Contact</td>
<td>Michael Russell</td>
</tr>
<tr>
<td>Address</td>
<td>316 Lotte Street</td>
</tr>
<tr>
<td>City, State and Zip Code</td>
<td>Bellingham, WA 98225</td>
</tr>
<tr>
<td>Email Address</td>
<td><a href="mailto:mrussell@co.whatcom.wa.us">mrussell@co.whatcom.wa.us</a></td>
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## Proposal Information

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<th>Proposal Due Date</th>
<th>Pre-Proposal Meeting Date</th>
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## Project Team

### Project Roles

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<th>DLR Associate</th>
<th>Office Location</th>
<th>Billing Rate</th>
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<td>Principal-In-Charge</td>
<td>Bill Valdez</td>
<td>Seattle</td>
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<tr>
<td>Interior Designer</td>
<td>Andrea Johnson</td>
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<td>Specification Writer</td>
<td>Erica Loynd</td>
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<td>QA/QC</td>
<td>David King</td>
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<td>Drafting Support</td>
<td>Tim Faber</td>
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## Project Fee Proposal

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**Total** $160,585.00

## Fee Breakdown

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**Total Phase Fee:** $59,890.00

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**Total Phase Fee:** $36,840.00

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<td>$165</td>
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<tr>
<td>CONSTRUCTION ADMINISTRATOR DAVID KING</td>
<td>$165</td>
</tr>
<tr>
<td>ADMINISTRATIVE-Accounting ERIKA MCCLAIN</td>
<td>$85</td>
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<tr>
<td>ADMINISTRATIVE-GENERAL JILL STAR/ERIKA MCCLAIN</td>
<td>$85</td>
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<tr>
<td>TOTAL PHASE FEE</td>
<td>$4,635.00</td>
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<table>
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<tr>
<th>EXPENSES</th>
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<tbody>
<tr>
<td>PROPOSAL EXPENSE</td>
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<tr>
<td>SHIPPING &amp; REPRODUCTIONS</td>
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<tr>
<td>OTHER</td>
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<td>MISCELLANEOUS</td>
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<td>CONTINGENCY (3% OF GROSS FEE)</td>
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<td>AMOUNT REMAINING</td>
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**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>Originator:</td>
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<td>7/16/13</td>
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<td>7/23/13</td>
<td>Finance/CNCL</td>
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<td>Division Head:</td>
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<td>Dept. Head:</td>
<td></td>
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<td>Prosecutor:</td>
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<td>Purchasing/Budget:</td>
<td>7/16/13</td>
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<td>Executive:</td>
<td>7/16/13</td>
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</table>

**TITLE OF DOCUMENT:** Approval to Purchase Radios

**ATTACHMENTS:** Memo from Finance and the Sheriff's Office

**SEPA review required?** ( ) Yes ( x ) NO  
**SEPA review completed?** ( ) Yes ( x ) NO

**Should Clerk schedule a hearing?** ( ) Yes ( x ) 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.)

The Sheriff's Office is requesting approval to purchase radios using The Washington State Contract. The vendor is Harris Corporation and the total purchase cost is $68,311.17. Funds for this purchase are coming from a Stonegarden FY2010 Grant and are available in the current budget.

<table>
<thead>
<tr>
<th>COMMITTEE ACTION:</th>
<th>COUNCIL ACTION:</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
</tr>
</thead>
</table>

**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](http://www.co.whatcom.wa.us/council).
DATE: 15 July 2013

TO: Jack Louws, County Executive

FROM: Brad Bennett, Administrative Services Finance Manager

SUBJECT: Purchase of Radios

BACKGROUND

The Sheriff’s Office is requesting approval to purchase 12 portable radios using the Washington State Contract. The vendor is Harris Corporation and the total price for this purchase is $68,311.17.

FUNDING

Funds for this purchase are coming from a Stonegarden FY20 grant and are available in the Sheriff’s current budget. I recommend approval.

Brad Bennett, Admin. Services Finance Manager

______________________________
County Executive

______________________________
Date of Council Action
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: July 16, 2013
SUBJECT: Harris Multi-Band Radios

The Sheriff’s Office is requesting authority to purchase Harris Multi-Band Radios under secured grant funding.

Background and Purpose

The Sheriff’s Office has received Department of Homeland Security grant funding through DEM, specifically identified as Operation Stonegarden FY2010 (OPSG-10). This funding is used to support security functions along the international border in partnership with federal authorities. The Whatcom County Sheriff’s Office has been approved, under this grant, to purchase 12 Harris Multi-Band Radios in support of this operation. The small amount ($1,812.67) of this PO that exceeds Operation Stonegarden funding is an allowable expense under a second Dept of Homeland Security grant, State Homeland Security Program FFY2011 (SHSP-11). The Sheriff’s Office already has budget authority in place on both these grants to fund this purchase.

The Sheriff’s Office requests approval to purchase these radios using the State’s WCSA Contract pricing of 68,311.17

Funding Amount and Source

$ 1,812.67: Federal Grant, SHSP-11, CFDA 97.067, W.C. Contract # 201204001.

Please contact Undersheriff Jeff Parks at extension 50418 if you have any questions.

Thank you.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

**CLEARANCES** | **Initial** | **Date** | **Date Received in Council Office** | **Agenda Date** | **Assigned to:**
---|---|---|---|---|---
Originator: | JL | 06/28/13 | | 07/09/13 | Finance
Division Head: | | | | 7/23/2013 | COTW
Dept. Head: | | | | | 
Prosecutor: | | | | | 
Purchasing/Budget: | | | | | 
Executive: | | | 7/23/13 | | 

**TITLE OF DOCUMENT:** Executive Louws provides an update on EMS contract progress.

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>( )</th>
<th>NO</th>
<th></th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>( )</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>( )</td>
<td>NO</td>
<td></td>
<td>Requested Date:</td>
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</tr>
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</table>

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

Executive Jack Louws will provide an update at Finance Committee regarding the Emergency Management Services contract progress.

**COMMITTEE ACTION:**
7/09/2013: Discussed. Mann stated schedule in Committee of the Whole in two weeks.

**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](http://www.co.whatcom.wa.us/council).
July 8th 2013
Honorable Ken Mann
Whatcom County Council Meeting
District 2, Position 4
Finance Committee

Councilman Mann,

First of all let me thank you on behalf of Bellingham / Whatcom County Firefighters IAFF Local #106 for your efforts to begin a positive dialogue between our labor group and the labor group at Whatcom County Fire District #7. Through this initial meeting we have been able to identify and communicate our shared interests regarding Whatcom Medic One in a respectful and productive manner. I believe our two labor groups have agreement on the following key issues:

A unified Whatcom Medic One most cost effectively provides the depth of response necessary for the non-linear type of demand encountered by emergency response services. Although a truly unified system (one agency) is the most efficient model, such a system is not the direction that the county council has chosen at this time.

There is a revenue short fall that needs to be addressed in a collaborative manner.

The current proposal to staff Whatcom County with four total Advanced Life Support transport units doesn't provide an adequate depth of response.

The members of Bellingham/Whatcom County Firefighters IAFF Local #106 have provided ALS service to Whatcom County for the past 38 years and we stand committed to continuing to provide high quality ALS care into the future. To accomplish this, IAFF Local #106 is firmly committed to moving forward with all parties in a reasonable, collaborative manner that maintains our high quality system. We also have heard very clearly that Whatcom County is committed to a County Fire District presence in the ALS transport system and we are prepared to continue to explore those options.

IAFF Local #106 encourages the Whatcom County Council to consider the continuation of a 4.5 Unit system through 2014 using reserves in the EMS fund. We also support a collaborative planning process that is inclusive of the labor groups that would address long-term financial stability through a revenue enhancement.
We look forward to the opportunity to continue developing relationships with all parties surrounding this issue. We are also committed, along with you, to uphold the trust that the residents and visitors of Whatcom County place in us to provide quality ALS service.

Thank you very much for your consideration on this matter.

Respectfully,

[Signature]

David L. Parker  
President  
IAFF Local #106  
Bellingham / Whatcom County Firefighters

Cc:  
Executive Jack Louws  
Mayor Kelli Linville  
Council Member Sam Crawford  
Council Member Bill Knutzen  
Council Member Kathy Kershner  
Council Member Barbara Brenner  
Council Member Carl Weimer  
Council Member Pete Kremen
July 9, 2013

Jack Louws
Whatcom County Executive
311 Grand Avenue Suite 108
Bellingham WA 98225

Executive Louws:

Per our discussion, please find the City of Bellingham’s perspective on Emergency Medical Services (EMS) delivery models, as well as the methodology and assumptions included in the City’s draft budget for three contracted paramedic ambulances. As you know, my core principles on EMS are maintaining a sufficient level of service and cost equity throughout the system.

Draft Budget Assumptions:
The proposal was built around the County Executive proposal to reduce from five plus to four (with three of the four being provided by the City) the number of available paramedic ambulances. The draft budget was assumes the following:

- A $46,000 per year City general fund increase into the program
- Actual expense history
- Removal of all dispatch costs
- Estimated reductions for less units/equipment/mileage
- Projected inflationary increases where appropriate for 2014
- Administrative staff were either removed entirely or moved into the new "COB Administrative Fee" section
- Elimination of an FTE equivalent administrative position (assumes the City no longer provides countywide EMS administrative services)

Note: The new administrative fee section was intended to clearly show administrative costs attributed by the City to the paramedic program. Along with the Indirect Cost Allocation (ICAP) the City attributes to enterprise funds, this section has all administrative labor costs from the fire department, IT support costs, internal and external insurance costs, and internal telephone charges.

As an additional consideration, the City retains many significant expenses directly related to the provision of countywide paramedic services that are not attributed to the paramedic program such as:

- LEOFF 1 retirement obligations, the city employed at least 12 LEOFF 1 firefighters that were used primarily for the provision of countywide paramedic care
• Unemployment costs associated with any layoffs that may result in service delivery changes
• Financial and legal liabilities that outlive the current interlocal agreement but were the result of services provided while under that agreement.

**Equity:**
In Whatcom County, the EMS system will not survive strictly on fees for service. Any system capable of timely response to critical incidents countywide will require tax subsidy. A requirement for the City would be that any new funding mechanism provides for an equitable distribution of costs to both City and County users and residents.

**Level of Service:**
The City provides its residents high quality, pre-hospital care and ambulance service delivered through a coordinated EMS system. This system includes dispatch services, first responders, and paramedic ambulance with all service providers training/practicing and working in a consistent, coordinated manner to achieve optimal patient outcomes. As has been demonstrated in Whatcom County, as well as many other EMS systems nationally and regionally, the current model of two paramedic staffing is the optimal staffing level allowing for quicker patient stabilization more flexibility on multiple patient scenes. Reducing to paramedic/EMT staffing model requires more units to respond to multiple patient incidents and unnecessarily delays patient care in highly critical situations.

**Call Volumes and Surge:**
This is a complicated subject and requires an understanding of "responses" vs. "incidents" vs. "tickets" to analyze the data. Responses are any call that a paramedic ambulance is sent to. Incidents are when a 911 call is received. Tickets document patient contacts and facilitate reimbursement for services.

In Whatcom County, on average, a paramedic ambulance can handle approximately 2,500 responses (slightly more in the City and slightly less in the County) while meeting acceptable unit hour utilization standards.

The need for surge capacity results from 911 calls coming in at a rate different than the rate at which ambulance(s) can provide required services. Additionally, history has demonstrated excessive and unpredictable surge capacity will result from response demands in excess of the 2500 per unit model.

In 2012, there were 8,410 tickets resulting from paramedic ambulance responses with the actual number of responses not currently available but believed to be approximately 10,000. Reduction of the current 4 City ambulance + 24 hour supervisor/chase car + District 7 providing 70% medic unit coverage will require careful analysis of which incidents paramedic ambulances will be asked to respond. The City will send paramedic ambulance on less incidents initially, requiring first response agencies to more often evaluate patient conditions and "upgrade" for paramedic services when appropriate.

In practice, when the system experiences a call for service surge, closest units of the appropriate type are sent to the incident. While the City has some capacity to handle surge we also have concerns related to future planning and the trigger points for adding additional paramedic resource.
In review, Whatcom County and the City of Bellingham have a 39 year history of a jointly funded, collaborative partnership providing countywide paramedic ambulance service. Increasing fiscal challenges over the last 15 years, primarily related to systematic and continuing decline in federal and state reimbursement for services, have contributed to an increasing demand for tax subsidy, and have resulted in increasing dissatisfaction with the ambulance service partnership. I believe that focusing on continuing to provide a sufficient level of service that reflects the true cost of service (and how it is funded) will allow us to continue EMS together and be successful in the future.

Respectfully,

Kelli L. Wilson
Mayor

KL/tl
County Executive Jack Louws  
Whatcom County Executive’s Office  
County Courthouse  
311 Grand Avenue, Suite #108  
Bellingham, WA 98225  

Dear Executive Louws:

On May 15th the Whatcom County Association of Fire Chiefs met in a special session to evaluate your proposed plan. The Chiefs would like to express their appreciation of the work you have invested in the design of a unified on-going system that provides equitable ALS service to all County residents.

We understand that a system administered by a single agency is not practical at this time. Despite this, it is still in the best interests for the citizens of Whatcom County to be served by a single system that provides equitable service to all county residents. The labor and cultural issues have to be put behind all of us and we must focus on moving forward in providing the best EMS Services to the entire County.

It is the intention of the Fire Chiefs of Whatcom County to uphold the key components of the 2005 plan. The Chiefs cannot support a plan that includes a reduction in service capability for the residents of Whatcom County. With the removal of the supervisor chase car, the 5th Medic Unit should be added as a full time unit in 2014 through Fire District 7 and maintain the current four COB units.

There is concern that the business model in Resolutions 2012-13 (COB) and 2012-016 (WC) was not designed for multiple administrations. There needs to be discussion with all the stakeholders in regards to this. The Chiefs would like to see a governance board and providers group with equal representation.

The Chiefs agree that the plan has extended several years beyond the projections because the Fire agencies agreed to provide BLS transports with the cost being born solely by each agency. The Chiefs respectfully request that this contribution to the system be recognized.
June 11, 2013

County Executive Jack Louws
Whatcom County Executive’s Office
311 Grand Ave., Suite #108
Bellingham, WA. 98225

Dear Executive Louws,

On May 8th, the Whatcom County Commissioners met at their normally scheduled meeting. On the agenda was to read your memo to the Whatcom County Council (This memo was also sent to all fire commissioners via email asking for their comments) regarding EMS negotiations between the County, City of Bellingham and Fire District No. 7 as related to your recommended steps in redesigning the existing ALS delivery system within the financial abilities of all entities.

Not to belabor previous discussions, comments, etc... We would like to respond to your four steps.

Step 1 - We agree an EMS oversight board Medic One Oversight Board (MOOD) should be developed and this board needs to have operational authority with direct input from a Technical Advisory Board (TAB). We understand contracting with multiple ALS providers may be challenging as anticipated in the 2005 EMS Plan. It is to the benefit of the ALS system that concerns of billing, training and operational differences be evaluated by the MOOD with input from TAB.

Step 2 – All the County Fire districts that are providing BLS services have stretched existing budgets and reserves to align the ALS system to where it is today. To lessen the ALS system to four units would place additional strain on the county BLS units, and if other financial restraints (dispatch fees) were placed on the BLS providers it would directly affect the total EMS system in Whatcom County.

Step 3 - Each service provider should have operational control over their own personnel. There is no reason through the MOOD and TAB boards that providers could not follow joint ALS operational protocols. Again we do not agree with total reduction in ALS services. Call loads have decreased due to BLS response, but not to where four units could handle the requests of Whatcom County residents.

Step 4 - There is concern over funding. The existing sales tax, fees for service and contribution from the County and City of Bellingham is not providing enough funding to keep the system afloat. Increasing the sales tax could provide additional funds to maintain and build a reserve for future years of the system. The system requires a dedicated funding mechanism to provide for the contract ALS providers and a system administration to manage the EMS process to
include: ALS, BLS, Public information services, including direct input from the County Medical Program Director, MOOD, TAB, Service Providers and Fire Districts.

In conclusion, we agree it is time to move forward and maintain an integrated professional EMS delivery for Whatcom County residents. It would be our desire to see the ALS providers continue, a stable funding source established and a separate administrator to work with present and future EMS providers (ALS and BLS), under the direction of MOOD with advisory from TAB.

There have been many hours of meetings from all parties (WC, COB, Fire districts, commissioners, citizens) it is time to move on.

Respectfully,

[Signature]

Al Saab, President
Whatcom County Fire Commissioners

Cc: Whatcom County Council
# 2014 EMS SYSTEM PROPOSALS - include Current System & 2 Paramedic Model

<table>
<thead>
<tr>
<th></th>
<th>Exec Louws Proposed 4 Units</th>
<th>Unified System 3 COB+1 FD7</th>
<th>County Only System 3 FD7</th>
<th>Existing System 4COB/Partial FD7</th>
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<tr>
<td>Revenues</td>
<td></td>
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<td>Sales Tax</td>
<td>2,259,000</td>
<td>2,259,000</td>
<td>1,659,000</td>
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<td>Whatcom County</td>
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<td>1,067,774</td>
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<td>City Of Bellingham</td>
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<td>-</td>
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<td>Fee Revenues</td>
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<td>2,490,000</td>
<td>1,365,000</td>
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<tr>
<td>Bellingham FD7</td>
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<td>Fee Increase</td>
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<td><strong>Total Revenues</strong></td>
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<td>Expenditures</td>
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<td>COB Units</td>
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<td>COB Subsidy</td>
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<td>(1,125,000)</td>
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<td>FD7 Units</td>
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<td>FD7 Subsidy</td>
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<td>COB Operations</td>
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<tr>
<td>FD7 Operations</td>
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<td>910,000</td>
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<td>515,000</td>
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<td><strong>Total Expenditures</strong></td>
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<td><strong>Preliminary Deficit</strong></td>
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<td>(640,871)</td>
<td>(517,015)</td>
<td>(1,262,270)</td>
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<td>District Dispatch Revenues</td>
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<td><strong>Net Deficit</strong></td>
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<td>(347,871)</td>
<td>(370,015)</td>
<td>(969,270)</td>
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Per Unit Amt pd by system = $1,391,250

Note: Revised 6/11/2013 - changes in FD7 costs
**PLAN VS. ACTUAL CALL VOLUME COMPARISONS**

*Medic One Actual Tickets = Medic One ALS, BLS and non-billable calls.*

Does not include BLS delivered by other providers.

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<th>Year</th>
<th>Medic One Per Plan</th>
<th>ALS Per Plan</th>
<th>Medic One Actual Tickets</th>
<th>ALS Actual (Medic One + FD7)</th>
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<td>4,066</td>
<td>9,042</td>
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<tr>
<td>2001</td>
<td>9,084</td>
<td>4,637</td>
<td>9,084</td>
<td>4,637</td>
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<td>2002</td>
<td>10,119</td>
<td>5,028</td>
<td>10,119</td>
<td>5,028</td>
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<tr>
<td>2003</td>
<td>10,980</td>
<td>5,263</td>
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<tr>
<td>2004</td>
<td>7,710</td>
<td>4,968</td>
<td>9,653</td>
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<td>2005</td>
<td>8,173</td>
<td>5,266</td>
<td>10,149</td>
<td>5,413</td>
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<td>2006</td>
<td>8,663</td>
<td>5,582</td>
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<td>5,577</td>
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<tr>
<td>2007</td>
<td>9,183</td>
<td>5,917</td>
<td>9,100</td>
<td>6,242</td>
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<td>2008</td>
<td>9,734</td>
<td>6,272</td>
<td>8,876</td>
<td>5,751</td>
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<td>6,648</td>
<td>8,256</td>
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<td>10,937</td>
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<td>7,897</td>
<td>4,074</td>
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<tr>
<td>2011</td>
<td>11,593</td>
<td>7,470</td>
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<td></td>
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<tr>
<td>2012</td>
<td>12,289</td>
<td>7,918</td>
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## COUNTYWIDE EMERGENCY MEDICAL SERVICES FUND as of 12/31/12 (Preliminary)

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<td>Beginning Fund Balance</td>
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<td>1,226,799</td>
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<td>3,675,925</td>
<td>3,946,760</td>
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<td>4,209,207</td>
<td>4,028,220</td>
<td>3,179,032</td>
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<td>Interest Income</td>
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<td>225,503</td>
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<td>35,407</td>
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<td>22,332</td>
<td>31,749</td>
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<td>2,213,678</td>
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<td>2,049,620</td>
<td>2,146,830</td>
<td>2,201,054</td>
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<td>(1,644)</td>
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<td>(15,000)</td>
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<td>Payments to FD7</td>
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<td>(65,867)</td>
<td>(245,433)</td>
<td>(76,972)</td>
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<td>(62,890)</td>
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<td>(47,783)</td>
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<td>Total Expenditures</td>
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<td>Net Revenues/(Expenditures)</td>
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<td>1,465,585</td>
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<td>203,383</td>
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Note: Sales tax revenues projected to increase at 3% per year over 2013 budget
Unable to project 2014-2016 without info from COB & FD7
Memo to:  Whatcom County Council Members  
From:  Jack Louws, County Executive  
Re:  EMS negotiations with City of Bellingham and Fire District #7  
Date:  May 7, 2013  

Councilors:  

On December 8th, 2010 by Resolution 2010-052 you resolved to send a notification letter to the City of Bellingham to discontinue the existing Interlocal Agreement regarding Emergency Medical Service Provision of Advanced Life Support Ambulance Service.  

On June 5, 2012, a Joint Resolution of the City of Bellingham (2012-13) and Whatcom County (2012-016) adopting the jointly recommended business model for county-wide emergency medical services was adopted by you.  

For most of 2012, the City of Bellingham (COB) and Whatcom County (WC) negotiated in good faith to accomplish the mandates as identified in the Joint Resolution. Fire District #7 (FD7) was invited to the table for input into contract language as they are an integral and valued asset of a county-wide emergency response service.  

By late in 2012, the County and City had developed the administrative contract and had a good start on the operations contract that would accomplish the goals as identified by the Mayor and me in June of 2012. As with most complicated negotiations, the closer we came to resolution on technical issues within the contract, the more the main overarching concerns of each entity became the prevalent topic of discussion.  

It became evident that administration, billing services, monetary equity, and cost control were not going to be easily solved for WC, COB or FD7. In consultation with the Mayor, we took a step back and I interviewed the FD7 Commissioners to determine the areas of compromise we could expect to achieve through the contracts. It became obvious to me that FD7 has a competitive and efficient billing system that could exist independently of COB, and that there may be challenges with the administration of FD7 operations being handled by COB.
Working with the Mayor, we debated the equity positions of WC and COB as it relates to the general fund contributions financing the operations of the system. Currently, COB charges the system the full price for the EMS units, but subsidizes the operations equal to their general fund contribution of approximately $1.068 million per year. The Mayor wants to ensure that future units that are added to the system contribute an equal amount of subsidy protecting COB from absorbing an unbalanced percentage of future costs. WC’s challenge is primarily in cost containment, and meeting the goals of the Council as defined in Resolution 2010-052.

This simplified description of the current challenges led the Mayor to ask me to propose a compromise solution for the COB to consider moving forward, as both the Mayor and I are convinced that working together is the correct path. Considering the concerns of the WC Council, COB, FD7 and the citizens of WC who need this service, I am pursuing these steps to bring this situation to resolution.

1) Contract with COB and FD7 to independently administer their contribution to the system under the direction of the Medic One Oversight Board (MOOD), as advised by the Technical Advisory Board (TAB).

2) Offer contracts to both COB and FD7 for full time EMS units within the net revenue projection expected through 2014. Transition to COB providing 3 full time units and FD7 to provide 1 full time unit by end of 2014. COB’s reduction in units would be accomplished through attrition and retirements. This reduction in service is needed to align our potential revenues with expected expenses, minimizing the need for additional GF contributions.

3) Require through contract that COB and FD7 align operational, educational, and logistical components of the ALS program through the TAB and MOOD.

4) Immediately raise revenue by presenting a new fee structure to WC Council for approval.

I understand the critical need of bringing resolution to this issue. As I previously stated, I believe working together is the only answer to this problem. Attached is a document titled “2014 EMS System Proposal”. It is an overview of what the system currently costs, and what the costs would be if the county parted ways with COB, and an estimate of what my proposal looks like (be advised that all are rough estimates).

The critical consideration that I believe makes it imperative that the County work with COB is that on our own, we only need two units to handle call volume, but we need three units to provide for adequate minimum run-times and to accommodate potential peak loads. It is irresponsible to cover the square miles of the County without three units, but it will require an additional cash outlay in excess of $6 million beyond our current commitment. We need Bellingham to assist in providing a system of coverage for all of Whatcom County, and I believe it would be advantageous for COB to have our support.

Pg.2, 05/07/2013, WC Council
As noted, this is the direction I am pursuing. Without a dedicated funding source that will provide an adequate income stream or a reimbursement plan that adequately compensates for the true cost of service, this is what is realistic to provide. It is time to bring the various stakeholders throughout the county together to iron out the details. I believe we have the major issues identified, and it is time to finalize the deal. I will work with COB and FD7 to craft contracts for their consideration, and I’m hopeful to have them before you in the near future.

The Mayor and I are, first and foremost, committed to making this plan work, but are also determined to work professionally together to unbundle this system in the event we are unable to reach an agreement. It is in all of our best interests.

Respectfully submitted,

JL
RESOLUTION NO. 2010–052

REQUESTING THAT THE COUNTY EXECUTIVE DRAFT AND SEND A NOTIFICATION LETTER TO THE CITY OF BELLINGHAM TO DISCONTINUE THE INTERLOCAL AGREEMENT REGARDING EMERGENCY MEDICAL SERVICE PROVISION

WHEREAS, in 2006 the emergency response agencies, along with Whatcom County government and the City of Bellingham (City), signed an agreement (contract No. 200611026) to support a cooperative countywide Emergency Medical Services response and provision plan; and

WHEREAS, since that time, opportunities for paramedic training and implementation outside of the Bellingham Fire Department have been unnecessarily more expensive and delayed; and

WHEREAS, the training and activation of paramedics to staff the 5th Medic One unit have been far more costly and time-consuming than was reasonably expected; and

WHEREAS, a common goal of all signatory agencies in the 2005 EMS plan was to maintain a unified EMS system, but instead there has been discord, delay, and confusion; and

WHEREAS, the most recent statements of protest by the City regarding training of a Point Roberts paramedic indicate a lack of responsiveness and general disregard by City administrators to the needs and well-being of Whatcom County citizens outside of Bellingham; and

WHEREAS, the Whatcom County Fire Commissioners Association has clearly stated in its Resolution 2010-01 that it supports the County Council and Executive in initiating changes to the current Interlocal Agreement with the City of Bellingham for providing Emergency Medical Services; and

WHEREAS, many other fire department officials have recommended that the County Council and Executive move to renegotiate the existing interlocal agreement with the goal of an improved agreement and development of a strategy for EMS delivery of service for 2012 and beyond; and

WHEREAS, a 'model' of a single, unified countywide EMS system must be developed with a countywide administrative component which allows the following:

A. Training and implementation of new paramedics, as needed with population and call volume growth, that does not carry a single-agency employment or union membership requirement unless appropriate for a given fire district based upon its existing employment practices

B. Assignment of paramedic responder duties, as well as transport of patients at all 'levels' of response including Basic Life Support (BLS) and Advanced Life Support (ALS), in a manner that can be served by any responding fire agency in Whatcom County as agreed upon through a coordinated and centrally-administered plan
C. An EMS system granting equal representation and cooperation between and among all county fire districts and city fire departments

D. A 'component' approach to administration of a system which may consist of EMS responder unit components, as well as a training component, an invoicing and collections component, and other operational components as needed

E. System-wide unification through an active EMS Administrative Board oversight, with regular reporting and accountability requirements directed to the Whatcom County Council as needed;

NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Council hereby requests the County Executive prepare and send a letter of notification, as provided in the current EMS interlocal agreement between the county and the City of Bellingham, notifying the City of the county's action to discontinue the current interlocal agreement, effective three calendar years from January 1, 2011; and

BE IT FURTHER RESOLVED that the Whatcom County Council calls upon all fire districts and city fire departments in Whatcom County to immediately initiate discussions and negotiations with the goal of crafting an EMS response system reflective of the values, responsiveness, participation, efficiency and well-being of all citizens of Whatcom County.

BE IT FINALLY RESOLVED that there will be a seamless continuation of unified Emergency Medical Services while Whatcom County, the cities, and fire districts work out problems with the existing agreement.

APPROVED___ the 7th day of December, 2010.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown Lewis, Clerk of the Council

Sam Crawford, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<th>Date Received in Council Office</th>
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<td>Jack Loos</td>
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RECEIVED
JUL 16 2013
WHATCOM COUNTY COUNCIL

TITLE OF DOCUMENT:
Ordinance to adopt the 2012 editions of the International Codes, and the 2012 Uniform Plumbing Code, consistent with State law and including WA State and Whatcom County Amendments to the Codes.

ATTACHMENTS:
Cover sheet, Ordinance and signature page

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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
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<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
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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.)

An ordinance to update and revise WCC Chapter 15 and adopt the 2012 editions of the International Codes published by the International Code Council, the Uniform Plumbing Code, consistent with Washington State law, also including the Washington State and Whatcom County Amendments to the 2012 International Codes. In accordance with Washington State law, the adopted codes are to be effective July 1, 2013.

This ordinance adopts the 2012 editions of the IBC, IRC, IFC, IMC, IFGC, UPC, referenced standards, all Washington State Amendments to the adopted codes and all Whatcom County Amendments to the adopted codes for administration, appendices and enforcement, as set forth in WCC Chapter 15.

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

Date: July 9, 2013

To: The Whatcom County Council

Through: J.E. "Sam" Ryan, Director

From: Wain Harrison, Manager Building Services/Deputy Fire Marshal

Subject: Ordinance to revise and update WCC Chapter 15

Introduction and Background:

This ordinance proposal revises Whatcom County Code (WCC) Chapter 15 to adopt the 2012 editions of the International Codes published by the International Code Council (ICC). The International Codes are revised and updated on a three-year cycle. Once published in the early part of a code cycle year, the State Building Code Council (SBCC) takes the remainder of the year to review the codes and make amendment recommendations. These amendments also include additional code from the State, such as the Washington State Energy Code and Handicap Accessibility Code. Finally, the codes and amendment recommendations are submitted to the State Legislature in the first session of the immediate following year (in this case 2013) for review and adoption.

There is one exception to the adoption of the International Codes. Washington State has not adopted the International Plumbing Code or the plumbing sections of the International Residential Code (IRC). It has instead adopted the Uniform Plumbing Code (UPC) published by the International Association of Plumbing and Mechanical Officials (IAPMO) and it has continued this trend in the current code update cycle. The UPC is also updated on a concurrent three-year cycle.

ICC and IAPMO allow and encourage local jurisdictions to amend and modify the administrative chapters of the various code editions according to their own needs. Individual jurisdictions also have the option and discretion to adopt and amend appendix chapters of the codes. This ordinance proposal for the revision of WCC Chapter 15 includes the amendments and modifications recommended by Planning & Development Services. Some highlights are discussed in this memo. The most
significant changes throughout the draft Chapter have been shaded in gray for easier reference.

Other than the updated code, appendix, and amendment references, there are very few substantive changes or updates in Sections .010 through .030 except as noted in the following.

Section 15.04.020, Subsection A, #7:

Language was added to Item #7 to refer any appeals related to grading activity associated with or conducted within regulated critical areas to the Hearing Examiner, per WCC Title 16, instead of through the Appeals Board.

Section 15.04.040:

The most significant number of amendments are noted in WCC Section 15.04.040, Amendments to the International Fire Code (IFC). The majority of these amendments are updated versions of standards that were codified as far back as Ordinance Number 89-75, approved in 1989, or have been administered as policy by the Fire Marshal’s office since that time.

Subsection A, Item #4:

RCW 18.160.070 refers to licensing requirements for designers and installation contractors of fire suppression and alarm systems.

Subsection A, Item #7:

Commercial hoods and suppression system are dimension specific to the cooking array layout and need review when altered.

Subsection A, Item #8:

Clarifying language is added for underground fuel tank removal.

Subsection A, Item #11:

The State amendments give jurisdictions the option to include road standards or not, per IFC Section 503.1 and 503.2, or to amend the standards. This was intended to reduce confusion between public roads versus private roads. The Fire Marshal’s office coordinated with the Public Works Dept. during their recent update and revision of Chapter 5 of the Whatcom County Development Standards regarding private roads and driveways (as well as discussions about public road standards). The result is compatible and consistent standards between the Development Standards and the IFC for private roads and driveways based on the number of users and/or average daily trips generated. The standards are listed and annotated per Appendix D, Apparatus access roads, and Exhibit A.
Subsection A, Item #12, Appendix B, Fire Flow Requirements for Buildings:

Appendix B has been substantially revised and updated. The intent is to re-codify and update many policies, standards, and options that have been historically administered by the Fire Marshal's office, and that were included as far back as WCC Ordinance #1989-75, but have been missing from subsequent adopting ordinance iterations. For reference, IFC Section 507.1 states that "an approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings, or portions of buildings are hereafter constructed or moved into or within the jurisdiction." The County adopts IFC Appendix B so that it can amend this requirement and provide options and alternatives.

Item #12, subsection a, Section B104.1, outlines the methodology for measuring fire flow area and moves it from a code interpretation into WCC Title 15.

The State did not adopt the sections of the IRC that require residential/accessory automatic sprinkler systems. Item #12, subsection b, Section B105.1, item #1, restates the current and historic status quo thresholds to require automatic sprinkler systems for residential/accessory buildings.

The balance of the amendments per Item #12, list thresholds and options to meet fire flow requirements for all other types of buildings. This includes Tables B105.1, 105.2, and B105.3. Appendix B, Section B103.1, allows decreases "in rural areas or small communities where the development of full fire-flow requirements is impractical." With this in mind, the Fire Marshal's office has revised and expanded the standard table provided in Appendix B, based in part on models from Kitsap, Pierce, and Yakima Counties, making the table less restrictive and inclusive of the decreases allowed by the code. The tables include option menu language to reduce or, in some cases, eliminate the need for large on-site water storage systems.

Subsection A, Item #13, Appendix C:

Language has been added to include an alternative to fire flow infrastructure (hydrants) for subdivisions and plats.

Subsection A, Item #14, Appendix D:

Language has been added in Item #2, subsection g, regarding additional safeguard requirements where grades are steep enough on private roads and driveways to inhibit emergency apparatus access, particularly in poor weather conditions.

Item #2, subsection h, includes language modifying thresholds where access road upgrade requirements are triggered.

Item #3 includes language requiring a permit for gates installed across emergency apparatus access roads and driveways. The minimum net opening width of any gate shall not be less than 12 feet.
Exhibits A through D:

Exhibits A through D were all coordinated between the Public Works Department and the Fire Marshal's office for the most recent update to the Whatcom County Development Standards. They have been vetted by the Technical Advisory Committee and received final approval from Public Works and the Executive's office. They are included in amendments to the Fire Code for reference and convenience.

15.04.050, Subsection B, Item #2:

Language has been added to this enforcement section to clarify the department's authority and discretion regarding non-exempt work done without a permit.
ORDINANCE NO. _________

An Ordinance adopting the Current State Building Code and Repealing the Existing Title 15 of the Whatcom County Code

Whereas, the Whatcom County Council held a public hearing on ______, 2013 to review staff findings and recommendations, and to consider any public testimony and written correspondence regarding Whatcom County Code Title 15, Buildings and Construction; and

Whereas, chapter 19.27 RCW requires Whatcom County to administer and enforce the State Building Code in the unincorporated areas within its boundaries; and

Whereas, the purpose of these codes is to promote the health, safety and welfare of the occupants or users of buildings and structures and the general public by the provision of building codes in Whatcom County; and

Whereas, RCW 19.27.040 allows local jurisdictions to adopt appropriate amendments to the State Building Code; and

Whereas, modifications and/or amendments to the State Building Code as it applies to Whatcom County are desirable for various reasons; and

Whereas, the State Building Code Council requires adoption of the 2012 edition of these International Codes; the 2012 edition of the Uniform Plumbing Code; the 2012 edition of the State of Washington Energy Codes; and the 2012 editions of the State of Washington Amendments and other referenced codes, with further Whatcom County amendments, by July 1, 2013;
NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1.  Title 15 of the Whatcom County Code is repealed in its entirety:
Section 2.  A new Title 15 is hereby adopted as shown in Exhibit A to this Ordinance.
Section 3.  Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this __________ day of __________, 2013

ATTEST:  WHATCOM COUNTY COUNCIL
         WHATCOM COUNTY, WASHINGTON

________________________  __________________________
Dana Brown-Davis, Council Clerk  Kathy Kershner, Council Chair

APPROVED as to form:

________________________
Civil Deputy Prosecutor

________________________
Jack Louws, Executive

( ) Approved  ( ) Denied

Date: ____________________
EXHIBIT A

Chapter 15.04
BUILDING CODES

Sections:
15.04.010 Adoption of referenced codes.
15.04.015 Department of Building Safety
15.04.020 Amendments to the International Building Code.
15.04.030 Amendments to the International Residential Code.
15.04.040 Amendments to the International Fire Code.
15.04.050 Permit expirations and violations of the above referenced codes.

15.04.010 Adoption of referenced codes.

Whatcom County hereby adopts the following codes, as amended by the Washington State Building Code Council pursuant to RCW 19.27 and 70.92 or successor, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, including permits and penalties.

A. The 2012 International Building Code, including Appendix B, except as amended per Ordinance #2007-024, Board of Appeals, and including Appendices C, E and J, as published by the International Code Council, hereinafter referred to as the IBC, as modified by Chapter 51-50 WAC or successor, and as amended in WCC 15.04.015, 15.04.020 and 15.04.050 is hereby adopted by reference.

B. The 2012 International Residential Code, including Appendix E, G, and K, as published by the International Code Council, hereinafter referred to as the IRC, and as modified by Chapter 51-51 WAC or successor and as amended in WCC 15.04.030 and in 15.04.050, is hereby adopted by reference with the following additions, deletions and exceptions: Provided that Chapters 11 and 25-42 of this code are not adopted.

C. The 2012 International Fire Code, including Appendices A, B, C, and D and latest supplements, as published by the International Code Council, hereinafter referred to as the IFC, as modified by Chapter 51-54A WAC or successor, and as amended in WCC 15.04.040 and 15.04.050.

D. The 2012 International Mechanical Code, including Appendix A, as published by the International Code Council, hereinafter referred to as the IMC, as modified by Chapter 51-52 WAC and as amended by WCC 15.04.050 or successor.
E. The 2012 International Fuel Gas Code, as published by the International Code Council, hereinafter referred to as the IFGC, as modified by Chapter 51-52 WAC and as amended by WCC 15.04.050 or successor.


G. Except as provided in RCW 19.27.170, the 2012 Uniform Plumbing Code, Uniform Plumbing Code Standards (IAPMO/ANSI UPC 1-2012), and including Appendix A, B, C and I, as published by the International Association of Plumbing and Mechanical Officials, hereinafter referred to as the UPC, as modified by WAC 51-56 and as amended by WCC 15.04.050 or successor.


I. The 2012 Washington State Energy Code, per WAC Chapter 51-11C, Commercial Provision, 51-11R, Residential Provisions, and Appendix Chapters or successor, hereinafter referred to as the WSEC.


K. Design data for Whatcom County shall be per Section 15.04.030, Subsection D, item #1.

15.04.015 Department of Building Safety

Section 103 is amended as follows:

103.1 Creation of enforcement agency. The Department of Building Safety is hereby created and the official in charge thereof shall be known as the Building Official. The Department of Building Safety is hereby referred to as the Building Services Division of the Whatcom County Planning and Development Services Department (WCPDS).

103.2 Appointment. The Department Director is the Building Official. The Director may appoint an alternate designee at his/her discretion.

103.3 Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Building Official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plans examiners and
other employees. Such employees shall have powers as delegated by the Building Official.

15.04.020 Amendments to the International Building Code.

A. The IBC is amended as follows:

1. Section 104.1 is amended with the following additional language:

The Building Official defers to WCC Title 17, Flood Damage Prevention, and per associated requirements of the Endangered Species Act (ESA), to be administered by Public Works, River and Flood Division, for all matters related to flood review of building permits.

2. Section 105.1, Required, is amended to include the following:

a. Commercial project proposals require pre-screening for a waiver (from pre-application meeting) or a pre-application meeting prior to permit application submittal. Pre-screening may be waived at the discretion of the Building Official for minor projects such as simple signs, single unit small equipment foundations, and projects of similar minor scale and impact. Information and document submittals for the purposes of waiver or pre-application are not intended to meet the standard for a complete permit application and do not constitute project vesting. However, information, requirements and conditions received by the applicant(s) and/or their agents or consultants for a given project proposal, as part of the waiver or pre-application process, will be considered vested, regardless of change of adopted codes or regulations, if a complete permit application is received within 30 consecutive days from the date of waiver or pre-application meeting. Such information, requirements and conditions are not intended or represented as a complete or comprehensive list of project requirements. Significant changes in the scope of a project proposal may require additional screening for another waiver or pre-application meeting.

b. Whatcom County (the County) may require that a covenant or agreement be recorded against the deed(s) applicable to the location and/or operation of a given project to inform future property owners of the current restrictions or approved land uses. The County may draft the covenant or agreement upon whatever terms the County in its discretion deems proper.

c. A coordinated master site plan (MSP), demonstrating consistency in the layout of the project proposal with all applicable regulatory
requirements, is required to be submitted by the applicant and/or project design professional in substantial charge prior to permit issuance. In general, a coordinated MSP will be required for projects exceeding a construction value of $200,000.00, but may be required for any project the Building Official deems necessary. County staff will review the site plan(s) in the application file for regulatory conflicts and discrepancies prior to plan check. County staff will notify the applicant and/or design professional of identified conflicts or discrepancies to be reconciled. The master site plan may be one page which incorporates all applicable regulatory review overlays when practical. It may also include multiple overlay pages for readability purposes provided they have been verified by County staff for regulatory consistency. Once the coordinated MSP has been reviewed and approved, application review processing will continue.

d. A state licensed contractor may obtain a permit, as required by the mechanical and plumbing codes, through mail-in applications for work not exceeding $10,000 valuation and not requiring plans and specifications and not in conflict with state or local zoning and environmental policies and with the prior approval of the building official.

e. The applicant shall fill out in full the forms furnished for that purpose, and attach thereto the full amount of moneys that are required for fees as required in the respective codes. The application shall contain all information necessary to the lawful enforcement of the provisions of the respective codes. The applicant shall file all forms with fees.

f. No person, firm, partnership, corporation or other entity shall perform work as provided herein until such time as they receive verification of approval of their application by the county building official and have been given written notice of a valid permit.

g. Any violation of this chapter shall be cause for the building official to revoke the mail-in applications privilege of the violator. Upon written notice of revocation, all provisions of the mechanical and plumbing codes superseded by this chapter shall resume in full force and effect as to the person or industrial plant whose application has been revoked.

3. Section 105.2, Work exempt from permit, is amended to read as follows:

a. One-story detached, non-occupied accessory structures without basements, used as tool and storage sheds, playhouses and similar uses, provided that 1.) The floor area does not exceed 120 square feet. [11 sq. m] 2.) Accessory structures maintain a minimum separation of 10 [ten] feet [3048 mm] between exterior walls, and a
minimum separation of 8 [eight] feet [2438 mm] between eaves of adjacent buildings on the same property and 3.) Provided that accessory structures meet all applicable setback requirements.

b. Fences not over 7 feet (2134 mm) high.

c. Oil derricks.

d. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting surcharge or impounding Class I, II, or IIIA liquids.

e. Water tanks supported directly on grade if the capacity does not exceed 5,000 gallons (18,925 L). And the ratio of height to diameter or width does not exceed 2 to 1.

f. Sidewalks, walking surfaces, and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and are not part of an accessible route.

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g. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

h. Temporary motion picture, television and theater stage sets and scenery.

i. Prefabricated swimming pools installed entirely above-ground, accessory to a Group R-3.

j. Shade cloth or soft cover structures constructed for nursery or agricultural purposes and not including service systems.

k. Swings and other playground equipment.

l. Window awnings in Group R-3 and U occupancies, supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

m. Nonfixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

n. Bridges, box culverts and similar passageway structures built over depressions or obstacles, herein after referred to as bridges, are structures and therefore not exempt per IBC Section 105.2, except as interpreted and quantified in Building Services Division Code Interpretation #2002-05. Bridges shall be designed and constructed per the current adopted Whatcom County Development Standards (WCDS), Chapter 5, Road Standards, Section 513, Bridges and Associated Retaining Walls; and per applicable portions of IFC Section 503. Bridges constructed as a requirement or condition of subdivision.
or short subdivision approval, per Whatcom County Land Division Regulations, Title 21, and which receive final approval from the Public Works Technical Administrator, shall be deemed by the Building Official to have met the permit requirements per IBC Section 105. The Technical Administrator is designated as the County Engineer, per WCDS, Chapter 5, Road Standards, Section 502.

4. Section 105.3, Application for Permit, is amended to include the following:

To obtain the permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 107.

5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant’s authorized agent.

7. Include signature by the applicant or the applicant’s authorized agent of a statement for guarantee of fee payment. The statement must be signed in the presence of County staff or staff will provide a statement which includes verification of signature by a licensed notary public.

8. Provide verification of approval to connect to a public sewer system or a septic system installation permit issued by the Whatcom County Environmental Health Department for any permit application that requires sewage disposal. The approval to connect or issued septic system permit shall be specific to the project application.

9. Provide additional data and information in the designated sequence, as required by the Building Official.

5. Section 105.5, Expiration, is amended to include the following:
Land Disturbance permits issued for grading activity shall expire if work authorized is not commenced within 180 days of issuance unless a phased plan has been approved by the Technical Administrator. The Technical Administrator is authorized to grant one extension of 180 days if the request is submitted prior to expiration of the permit. The extension shall be requested in writing and justifiable cause(s) demonstrated. If the project is located within a water resource special management area and subject to seasonal clearing activity limitations the extension shall begin at the commencement of the construction season, pursuant to WCC 20.80.735.

Grading permits also expire and become invalid when the total approved volume has been placed into or excavated from the approved area.

6. Section 107.2 is amended to include the following:

Construction documents may be submitted in Standard English or Metric measurement. However, the Building Official may require, at his/her discretion, that the construction documents be converted by the applicant from/to either system of measurement, or require documents to include both systems of measurement prior to document submittal.

7. Section 109, Refunds, is amended to include the following policy:

The refund policy applies to the current editions and amends the respective Sections of the IBC, Section 109; IRC, Section R108.5; IFC, Section 113.5; IMC, Section 106.5.3; IFGC, Section 106.6.3; and UPC, Section 103.4.5, as adopted per WCC 15.04.010.

The Building Official may authorize refunding any fee hereunder which was erroneously paid or collected at 100%.

The Building Official may authorize refunding of not more than 80% of the fee paid for a building permit when no work has been done under a building permit issued in accordance with the current editions listed in this policy.

The Building Official may authorize refunding of not more than 80% of the plan review fee paid when an application for a building permit for which a plan review fee has been paid is withdrawn or cancelled before any plan reviewing is done.

The Building Official shall not authorize the refunding of any fee paid, except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

8. Section 113, Board of Appeals, is amended as follows:
Appeals related to grading activity, per Appendix J and as amended per Section 15.04.020, Subsection B, which include, are associated with in any way, or promulgated within any regulated critical areas, per WCC Chapter 16, are according to the provisions of WCC Sections 16.16.280 and 16.16.285.

B. Appendix J, Grading is amended as follows:

1. IBC Section 104.1 is amended per WCC 15.04.020, Subsection B, including an additional paragraph to read as follows:

   The Director of the Planning and Development Services Department or the Director’s designee also referred to herein as the Technical Administrator, is hereby authorized and directed to enforce the provisions of IBC Appendix J, Grading, including as amended in WCC Chapter 15, Section 15.04.020. The Technical Administrator shall have the authority to render interpretations of the amended Appendix and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of amended Appendix J. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in amended Appendix J.

2. The following definitions are added to Section J102.1:

   a. EARTH MATERIAL: Any rock, natural soil or any combination thereof.

   b. CRITICAL AREAS: The following areas as regulated under WCC 16.16 shall be regarded as critical areas along with associated buffers identified under WCC 16.16:

      i. Geologically hazardous areas.

      ii. Frequently flooded areas.

      iii. Critical aquifer recharge areas.

      iv. Wetlands.

      v. Fish and wildlife habitat conservation areas.

   c. ORDINARY HIGH WATER MARK: The mark on all lakes, rivers, streams and tidal water that will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland in respect to vegetation.
3. The following shall be added to Section J103.1:

Upon receipt of a fill and grade permit application on properties within 500 feet of a site known to contain archaeological resources that are outside of the Shoreline Management Program Jurisdiction (WCC Title 23) and/or the Point Roberts Special District (WCC 20.72), the County shall notify the applicant that the projects location is within an archaeologically sensitive area and Federal, State and Tribal Laws and Regulations pertaining to cultural resources may apply.

Grading permit expiration is per IBC Section 105.5 as amended.

4. The numbered exemption list of Section J103.2, Exemptions, is amended as follows:

1. Grading in an isolated, self-contained area, provided there is no danger to the public, and that such grading will not adversely affect adjoining properties or critical areas and further provided that the activity occurs outside of the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23) and fill does not exceed 250 cubic yards and is associated with a residence authorized by a valid building permit.

2. Excavation for construction of a structure permitted under this code provided that said construction has been duly reviewed for compliance with the Whatcom County Shoreline Management Program (WCC Title 23) and the Whatcom County Critical Areas Ordinance (WCC 16.16).

3. Cemetery graves

4. Refuse disposal sites controlled by and appropriately permitted in accordance with other regulations.

5. Excavations for wells or trenches for utilities provided the activity occurs outside of the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23) and there are no adverse impacts to critical areas.

6. Mining, quarrying, excavating, processing or stockpiling rock, sand, gravel, aggregate or clay controlled by other regulations, provided the activity occurs outside of the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23) and such operations do not affect the lateral support of, or significantly increase stresses in soil on adjoining properties, or adversely impact critical areas.
7. Exploratory excavations performed under the direction of a registered design professional provided that said excavations have been duly reviewed for compliance with the Whatcom County Shoreline Management Program (WCC Title 23) or critical areas ordinance.

8. A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope) or less than 3 feet in depth, not intended to support structures, that does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course or otherwise impact critical areas provided the activity occurs outside of the jurisdiction of the Whatcom County Shoreline Management Program.

9. Exemptions listed per WCC 20.80.733.

5. The following site plan requirements are added to J104.2:

a. In addition to the provisions of Section 107, a grading plan shall show the existing grade and finished grade in contour intervals of sufficient clarity to indicate the nature and extent of the work and show in detail that it complies with the requirements of this code.

b. The plans shall show the existing grade on adjoining properties in sufficient detail to identify how grade changes will conform to the requirements of this code.

c. The plans shall show erosion control types and locations, natural features (slopes, streams, wetlands, ponds, etc.), forested or treed areas, ditches, culverts, wet areas, flow directions, critical area boundaries, the Ordinary High Water Mark (OHWM) of any water body regulated by the Whatcom County Shoreline Management Program and any other information deemed necessary by the Building Official.

6. J104.3, Geotechnical report, is amended as follows:

When required by the Technical Administrator, a geotechnical report prepared by a registered design professional shall be provided. The report shall contain at least the following:

1. The nature and distribution of existing soils;

2. Conclusions and recommendations for grading procedures;

3. Soils design criteria for any structures or embankments required to accomplish the proposed grading;
4. Where necessary, slope stability studies, and recommendations and conclusions regarding site geology; and

5. Unless approved by the Technical Administrator, a building permit shall not be issued on approved fills without an engineered soils report and proof of supervised, monitored placement by the registered design professional.

6. Additional information may be required at the discretion of the Technical Administrator.

7. The Technical Administrator may require a geotechnical report be prepared by a registered design professional to determine the quantity of unpermitted fill brought to a site without a valid permit, as required by this chapter.

**Exception:** A geotechnical report is not required where the Technical Administrator determines that the nature of the work applied for is such that a report is not necessary.

7. Add the following as Section J104.5, Surface mining report:

Grading permit plans associated with surface mining shall be consistent with a surface mining reclamation plan as required and approved by the Washington Department of Natural Resources.

(Ord. 2004-064 § 2).

**15.04.030 Amendments to the International Residential Code.**

A. Section R105.1, Required, is amended as follows:

Whatcom County (the County) may require that a covenant or agreement be recorded against the deed(s) applicable to the location and/or operation of a given project to inform future property owners of the current restrictions or approved land uses. The County may draft the covenant or agreement upon whatever terms the County in its discretion deems proper.

B. Section R105.2, Work exempt from permit, is amended to read as follows:

1. One-story detached, non-occupied, accessory structures without basements, used as tool and storage sheds, playhouses and similar uses, provided that 1.) The floor area does not exceed 200 sq. ft.
[18.58 sq. m] and 2.) Provided that accessory structures meet all applicable setback requirements.

2. Fences not over 7 feet (2134 mm) high.

3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L). And the ratio of height to diameter or width does not exceed 2 to 1.

5. Sidewalks, walking surfaces, and driveways not more than 30 inches above grade and not over any basement or story below.

6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

7. Above ground pre-fabricated pools.

8. Swings and other playground equipment.

9. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

10. Decks not exceeding 200 square feet (18.58 sq. m) in area, that are no more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

C. R105.3, Application for permit, is amended to include the following:

To obtain the permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Include signature by the applicant or the applicant's authorized agent of a statement for guarantee of fee payment. The statement must be signed in the presence of County staff or staff will provide a statement which includes verification of signature by a licensed notary public.

8. Provide verification of approval to connect to a public sewer system or a septic system installation permit issued by the Whatcom County Environmental Health Department for any permit application that requires sewage disposal. The approval to connect or issued system permit shall be specific to the project application.

9. Provide additional data and information in the designated sequence, as required by the Building Official.

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D. Table R301.2 (1) Design Data for Whatcom County is amended as follows:

1. GROUND SNOW LOAD TABLE, JANUARY 1997.

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<thead>
<tr>
<th>Whatcom County</th>
<th>Approx. Average Elevation</th>
<th>Revised Ground Snow Load</th>
<th>Revised Roof Snow Load</th>
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<tr>
<td>Bellingham</td>
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<tr>
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</tr>
<tr>
<td>Pt. Roberts</td>
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<td>25</td>
<td></td>
</tr>
</tbody>
</table>

Footnotes:

Any proposal can challenge the above design load with engineer or architect stamped and signed calculations and criteria.

Buildings where the roof snow load exceeds 30 psf may require architect or engineer review.

Recommendations are valid for the recognized central area of each regional designation. Building Services reserves the right to adjust the roof snow load based on building location and/or criteria per the 2012 IBC and/or the most current edition of the Snow Load Analysis for Washington.

2. Wind Speed (mph): 85 mph

3. Seismic Design: Zone D0/D1, Design Category D (See IBC Section 1613 and/or ASCE 7)

4. Subject to Damage from Weathering: Moderate

5. Frost Line Depth: 18" (west of longitude 122° 54' 30")

6. Termite: None

7. Decay: Moderate

8. Winter Design Temp: 19 ° F

9. Ice Shield Underlayment Req.: No

10. Air Freezing Index: 260

11. Mean Annual Temperature: 48° F

E. Appendix E, Manufactured Homes, is entirely replaced with the following:

This chapter is enacted as an exercise of the police power of the county for the benefit of the public at large. It is not intended to create a special relationship with any individual, or individuals, nor to identify and protect any particular class of persons.
The purpose of this chapter is to provide minimum standards to safeguard life or limb, health or property, and public welfare, by regulating and controlling the installation of manufactured homes on building sites within the county.

It is not the intent of this chapter to impose liability upon the county for failure to perform any discretionary act. Rather, it is the intent of this chapter to place the obligation of complying with its requirements upon the installer. Nothing contained in this chapter shall be construed to relieve from or to lessen the responsibility or liability of any person for injury or damage to persons or property caused by or resulting from any defect of any nature in any manufactured home installation work performed by said person or in any manufactured home installation equipment owned, controlled, operated or used by him; nor shall Whatcom County, or any officer, agent, or employee thereof, incur or be held as assuming any liability by reason or in consequence of any permission, certificate of inspection, inspection or approval authorized herein, or issued or given as herein provided, or by reasons or consequence of any things done or acts performed pursuant to the provisions of this chapter.

1) SCOPE

This chapter sets forth rules and regulations to regulate and control the installation of manufactured homes on building sites, establishes an administrative procedure for the issuance of permits, and provides for the inspection of manufactured home installations.

2) DEFINITIONS

a. ADMINISTRATIVE AUTHORITY is the Department of Planning & Development Services, the Building Services Division, and the Whatcom County Building Official.

b. BUILDING OFFICIAL is the Director of the Planning & Development Services Department or his/her designee. See Section 15.04.015.

c. BUILDING SITE is any site proposed for the location of a manufactured home including sites within mobile home parks.

d. HUD is the Federal Department of Housing and Urban Development.

e. INSTALLER shall either be the owner or a State licensed mobile home installer.

f. MANUFACTURED HOME means a structure designed and built to comply with the Washington State Department of Labor and Industry’s rules and regulations for Manufactured Homes and Commercial
Coaches. It is also defined and cross-referenced per the current adopted edition of the IRC, SECTION R202, DEFINITIONS, MANUFACTURED HOME.

g. MOBILE HOME is a transportable, factory-built dwelling unit constructed prior to June 15, 1976 (prior to enactment of National Manufactured Housing Construction & Safety Standards [NMHCSS] Act of 1974).

h. PERMANENT FOUNDATION means concrete blocks on a concrete footing or slab, or other approved engineered foundation systems.

3) GENERAL INSTALLATION REQUIREMENTS

a. Manufactured homes installed on building sites shall be installed in accordance with the provisions of this chapter and all applicable local, state, and federal codes, ordinances, and statutes.

b. Manufactured homes shall be installed in compliance with the manufacturer's installation recommendations or according to NCSBCS/ANSI A225.1-1994; permanent foundation requirements. The manufacturer or dealer shall send two copies of its approved installation recommendations to the purchaser of the manufactured home. Two copies shall be submitted with the building permit application.

c. No person, firm, partnership, corporation, or other entity may install a manufactured home unless he/she owns the manufactured home, or is a licensed manufactured home installer.

d. All manufactured home installations shall comply with the requirements of the IRC Section R403.1.7.3, Foundation Elevation, and with the following: On graded sites, the top of any exterior foundation shall extend above the elevation of the street gutter at point of discharge or the inlet of an approved drainage device a minimum of 12 inches plus 2 percent. The Building Official may approve alternate elevations, provided it can be demonstrated that required drainage to the point of discharge and away from the structure is provided at all locations on the site. The following provisions shall be made to prevent standing water under and around a building or structure prior to the final inspection. The finished grade and elevation under the building shall be above- the ground drainage flow of the land around the building to prevent surface or sub-surface water from draining to the space under the building, provided that other approved alternates such as drain tile, exterior grading to a point lower than the interior drainage of the building or an approved sump pump may be used, and provided further that the alternate method to be used shall be shown on the building plans. An approved sump pump system shall in no case be
connected to the sanitary sewer system. In all instances where a drainage or sump pump system is installed under the structure there shall be provided, in the foundation wall, an access crawl hole which shall be no more than 20 feet from the main drain cleanout. To facilitate the drainage of water, the building site shall have at least a 2% gradient towards approved drainage facilities from building pads. However, this may be waived by the building official provided that the permittee can demonstrate that due to the nature of the site this would be impractical and that an approved alternate will be used. If water appears under the building within a period of 12 months after the final inspection of the building or structure, the builder shall be responsible for providing the drainage of the same, and provided further that the builder has not complied with the requirements of Section 1804.7 herein, concerning drainage. Thereafter, the owner of the building shall be responsible for providing drainage of the same, except where owner and builder agree otherwise.

e. In those areas that are recognized as floodplains by the Washington State Department of Ecology or the Department of Homeland Security, or hazardous because of the probability of earthquakes, ground slides, avalanches, or high winds, the building official may set requirements that are necessary to lessen the hazards. Manufactured homes installed on sites that are sloping or have poor drainage shall be installed in accordance with installation recommendations, provided by a professional engineer or architect licensed in the state of Washington.

f. Manufactured homes in a floodplain must be installed per the applicable provisions of Whatcom County Code, Title 17, Flood Damage Prevention, and per associated requirements of the Endangered Species Act (ESA).

g. Used mobile homes older than 1976, require a fire/life safety inspection by the State Dept. of Labor & Industries prior to building permit submittal.

4) PERMITS REQUIRED

No person, firm, or corporation shall install or cause to be installed any manufactured home on a building site without having first obtained a building permit and a manufactured home dealer shall not deliver a manufactured home to a building site until that dealer has verified that the installer has obtained the necessary building permits.

5) APPLICATION REQUIREMENTS

In addition to the building permit application and issuance regulations, the following shall apply to manufactured home installations: separate
application shall be required for each manufactured home installation. The application shall be made upon forms provided by the administrative authority and shall be accompanied by the permit fee established herein.

a. A separate application shall be required for each manufactured home installation. The application shall be made upon forms provided by the administrative authority and shall be accompanied by the permit fee established herein.

b. Each application shall be accompanied by a plot plan drawn to scale with detail sufficient to show that the installation will meet sitting requirements of all applicable state and local regulations.

c. Applications for manufactured homes to be installed on building sites or sites within a mobile home park shall be accompanied by two sets of foundation plans for a permanent foundation.

6) INSPECTION

Approved installation specifications shall be available at the site at the time of inspection of the installation. In the event that no approved installation specifications are available or the approved specifications as provided above do not cover all the installation requirements of this chapter, then the total installation of the portions thereof not covered by the approved specifications shall comply with the appropriate provisions of this code.

a. On building sites other than those in mobile home parks, the installer of the manufactured/mobile home shall request a footing inspection after the placement of the footing forms and rebar and prior to pouring or placing the footings, a tie-down inspection and a final inspection after all aspects of the installation have been completed. For mobile home park installations, the installer shall request a final inspection after all aspects of the installation have been completed. All requests for inspection shall be made one working day before such inspection is desired.

b. The manufactured/mobile home may be occupied once the installation has passed final inspection for compliance with the requirements of this chapter and any conditions placed upon the issued permit.

c. If the installation does not comply with the installation requirements of this chapter and the conditions of the installation permit, the local enforcement agency shall provide the installer with a list of corrections that the installer must make. The list of corrections shall state a date by which the corrections must be completed. If the items that require correction do not endanger the health or safety of the occupants, or
substantially affect the habitability of the manufactured/mobile home, the local enforcement agency may permit the owner of the home to occupy it.

7) BUILDING SITE PREPARATION

A manufactured home may not be installed on a building site unless the ground at the site has adequate compaction and load-bearing ability to meet the support requirements of (3)(d) or, if the building site is in a mobile home park, the park owner must insure that the ground on which the mobile home is to be installed has been improved as necessary to provide a proper base for the mobile home and that the area beneath the mobile home has adequate drainage.

8) FOUNDATION SYSTEM FOOTINGS

a. Footings shall be constructed of solid concrete per the manufacturer's installation specifications or an approved alternate method.

b. Four-inch slab with thickened footings, extending 18 inches below existing grade, 16 inches diameter concrete posts, spaced according to the applicable requirements of NCSBCS/ANSI A225.1-1994, with a four-inch concrete slab and Z hook for positive connection between post and slab, if in a flood plain.

c. Footings shall be:

   i. Evenly bedded and level;

   ii. Placed on firm, undisturbed or compacted soil that is free of organic material;

   iii. Centered in a line under the main frame longitudinal members on both sides of the manufactured home;

   iv. Spaced not more than eight feet apart and no more than two feet from the ends of the main frame. The building official may require a closer spacing, depending on the load bearing capacity of the soil or the specifications in the manufactured home installation manual.

d. A manufactured home with more than one section must have center line blocking at end walls and at other points of connection of the sections of the manufactured home that have ridge beam bearing support. Blocking is also required at both ends of a door opening that is six feet or more wide in an exterior wall.

e. If a manufactured home requires footings on its exterior perimeter, as specified by the installation recommendations or required by the building official, the footings shall be installed below the frost line.
f. Footings shall be constructed so that 75 percent of the area under the manufactured home has at least 18 inches clearance between the bottom of the main chassis members and the ground level. The area beneath the furnace cross-overs and fireplaces must always have at least 18 inches clearance. At no point under the manufactured home may clearance be less than 12 inches.

9) FOUNDATION SYSTEM PIERS

a. An installer must build and position piers and load-bearing supports or devices to distribute the required load evenly. An installer must use manufactured piers or load-bearing supports or devices that are listed or approved for the intended use.

b. A pier may be made of a single stack of 8-inch by 16-inch blocks if the blocks are not stacked more than three blocks high. A pier made of a single stack of blocks shall be installed at a right angle to the main frame longitudinal members and shall be capped with no more than 2-inch by 8-inch by 16-inch wood blocks or one 4-inch by 8-inch by 16-inch concrete block.

c. A pier may be made of a double stack of 8-inch by 8-inch by 10-inch blocks if the blocks are not stacked more than five blocks high. Each row of blocks in such a pier shall be stacked at right angles to the abutting rows of blocks. The pier shall be capped by with 2-inch by 8-inch by 16-inch concrete blocks. The pier shall be installed so that the joint between the cap block is at right angle to the main frame longitudinal members.

d. A pier may be made with more than five courses of blocks and not to exceed 9 (72 inches) courses of block if the stacked blocks are filled with 2,000 psi concrete or mortar, and no more than 20% of the piers exceed five courses (40°). All other systems shall be designed by a licensed Washington state engineer or architect.

e. All blocks shall be set with cores placed vertically.

10) FOUNDATION SYSTEM PLATES AND SHIMS

An installer may fill a gap between the top of a pier and the main frame with a wood plate that is not more than two inches thick and two opposing wedgeshaped shims that are not more than two inches thick. Wood plates and shims must be of hemlock/fir, Douglas fir, or spruce/pine/fir. A shim shall be at least four inches wide and six inches long. The installer shall fit the shim properly and drive it tight between the wood plate or pier and the main frame to ensure that the manufactured home is level and properly supported at all load-bearing points. A block that abuts a wedge-shaped shim shall be solid.
11) FOUNDATION

A manufactured home shall have an approved skirting around its entire perimeter. The wood of the skirting shall be at least six inches from the ground unless it is pressure-treated wood. Metal fasteners shall be hot dipped galvanized, stainless steel, or other corrosive-resistant material. Ferrous metal members in contact with the earth, other than those that are galvanized or stainless steel, shall be coated with asphaltic emulsion. A manufactured home that is installed shall have ventilation openings with a net area of one square foot per 150 square feet of crawl space; except manufactured homes installed in the flood plain shall have ventilation openings with a net area of 1 square inch per 1 per square foot of crawl space installed within 1 foot of finished grade. The openings shall be designed to provide cross ventilation on at least two approximately opposite sides of the manufactured home. The installer shall locate openings as close to the corner of the manufactured home as practical and shall cover the opening with a corrosive-resistant wire mesh. Dryer vents and hot water tank pressure release valves shall exhaust on the exterior of the perimeter skirting. The skirting for each section of the manufactured home shall have an opening of at least 18 inches by 24 inches with a cover of metal or pressure-treated wood to allow access to the crawl space. In all cases the foundation shall be installed before a final sign off can be made.

12) ANCHORING SYSTEM

The building official shall require a single section or multiple section manufactured home to have an anchoring system. Such an anchoring system shall be installed per the manufactured installation specifications or according to the design of a professional Washington State licensed engineer or architect. Components of the anchoring system shall have a resistance to weather deterioration that is at least equal to that of a zinc coating that is not less than 0.3 inches per square foot of coated surface. Cut edges of zinc-coated strapping do not need to be coated.

a. An installer shall install, preload, and adjust a ground anchor in accordance with the anchor manufacturer's instructions. The installer must supply a copy of the instructions to the building official. Ground anchors shall be marked with the manufacturer's identification and model number in a location that is visible to the inspector after the anchor is installed. The manufacturer of a ground anchor must provide instructions with each anchor that specifies the kinds of soils for which the anchor is suitable. Analysis from a WA State licensed engineer may be required.

b. If concrete slabs or continuous footings are used to transfer the anchoring loads to the ground, the following requirements apply:
i. Engineered tie-down systems shall be per approved details from the Washington State Department of Labor and Industries.

ii. A concrete slab may be used in place of a ground anchor if it provides holding strength equal to the required ground anchors.

iii. Analysis from a WA state licensed engineer may be required.

c. Ties shall be of approved strapping, or other approved materials. Ties shall be fastened to the ground anchors and drawn tight with turnbuckles, yoke fasteners, or other approved tension devices. Tension devices shall end in clevis, forged, or welded eyes. Tension devices shall be designed to prevent self-disconnection if the ties become slack. Ties shall connect the ground anchors to the main frame longitudinal members. Ties must not connect to steel outrigger beams that fasten to the main frame unless the manufacturer's installation instructions specifically approve the connection. Diagonal ties must lie at least 45 degrees from the vertical.

d. The installer shall space the ties as evenly as practical and shall locate a tie within eight feet of each end of the manufactured home. The installer shall install vertical ties at each detached corner of a clerestory roof and added-on sections of expandable manufactured homes., the installer shall install the following number of ties for each I-beam or other main frame longitudinal member: according to the manufacturer's specifications or per NCSBCS/ANSI A225.1-1994, as indicated in the following chart:

<table>
<thead>
<tr>
<th>Length of home in feet (excluding hitch)</th>
<th>Number of vertical ties per detached corner of add-ons</th>
<th>Number of diagonal ties</th>
</tr>
</thead>
<tbody>
<tr>
<td>32 – 54</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>55 – 73</td>
<td>1</td>
<td>6</td>
</tr>
</tbody>
</table>

13) ASSEMBLY

The water pipe connection to the manufactured home shall have a main shutoff valve in compliance with the 2012 Uniform Plumbing Code, Section 606.. Exterior water lines and ducting under the manufactured home shall be insulated. In all other respects, utility connections to the manufactured home, including water, sewer, electricity, and gas shall comply with the applicable county codes. Accessory structures attached to or located next to a home, such as awnings, carports, garages, porches, or steps shall be constructed in conformance with applicable county codes and structurally independent of the manufactured home unless pre-approved by manufacturer. (Ord. 2004-064 § 2).
15.04.040 Amendments to the International Fire Code.

A. The International Fire Code is amended as follows:

1. Section 102.2. Administrative, operational and maintenance provision, is amended to read as follows:

To provide a reasonable degree of safety to persons occupying existing buildings, there shall be a fire code inspection, at times to be determined by the Whatcom County Fire Marshal, for all Group A, B, E, F, H, I, M, R, S and U occupancies. Only R-3 Occupancies containing the following shall be subject to fire code inspections: Adult family homes, family daycare homes, adult and child care facilities, as defined in the Washington State amendments.

2. Section 103.1 is amended to read as follows:

103.1 General. The Department of Fire Prevention, herein after referred to as the Fire Marshal’s Office, is established within the jurisdiction under the direction of the Fire Code Official, herein after referred to as the Fire Marshal. The function of the department shall be the implementation, administration and enforcement of the provisions of this code. Recognizing the authority and responsibility vested in the Fire Marshal by the International Fire Code, the Fire Marshal is authorized to promulgate such rules, policies and/or procedures as he/she deems necessary for the efficient operation of fire prevention and investigations.

3. Section 103.2 is amended to read as follows:

103.2 Appointment. The Fire Marshal shall be appointed by the Department Director. The Fire Marshal shall be not less than a supervisor within the Building Services Division of the Whatcom County Planning & Development Services Department, as designated by the Building Official. The Fire Marshal for Whatcom County is authorized to enforce the provisions of this ordinance and adopted referenced codes and amendments. The Fire Marshal shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the authority having jurisdiction.

4. Section 104.1 is amended with the following additional paragraph:

The provisions of RCW 18.160.070 will be enforced by the Fire Marshal’s office as specified, including but not limited to work performed by contractors and/or documentation verifying compliance with current licensing requirements. Issuance of permits may be withheld due to lack of compliance with these provisions.
5. Section 104.10, Fire investigation, is amended to read as follows:

The Whatcom County Sheriffs Office shall have the authority to investigate the cause, origin and circumstances of any fire, explosion or other hazardous conditions. Information that could be related to trade secrets or processes shall not be made part of the public record except as directed by a court of law.

6. Section 104.10.1 is amended to read as follows:

a) The Whatcom County Fire Marshal shall have the authority to render necessary assistance in the investigation of fires. The Whatcom County Fire Marshal and designated, assigned staff members shall have the powers of a limited authority of a Washington peace officer as defined in Chapter 10.93 RCW. They shall be commissioned by the Whatcom County Sheriff as specially commissioned Washington peace officers, as defined in Chapter 10.93 RCW, upon satisfaction of the training and other requirements prescribed or approved by the Washington Criminal Justice Training Commission, for the purpose of administering this code.

7. Section 105.7.1 is amended with the addition of the following language:

Commercial cooking arrays require permanently affixed signage that states: “Alteration of commercial cooking arrays is prohibited without prior review and approval from the Whatcom County Fire Marshal.” Location of signage to be determined by the Fire Marshal.

8. Section 105.7.8 Flammable and combustible liquids, is amended as follows:

1. (unchanged)

2. (unchanged)

3. To install, alter, remove, abandon, or otherwise dispose of a flammable or combustible liquid. Abandoned underground fuel tanks are required to be removed according to all applicable codes and safety standards except under special circumstances, such as steep or extreme topography, significant physical obstructions, or similar circumstances, as approved per the discretion and judgment of the Fire Marshal.

9. Section 108.1, Board of appeals, is amended to read as follows:
In order to hear and decide appeals of orders, decisions or determinations made by the Fire Marshal relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals. Whatcom County Ordinance No. 2007-024 shall be the Fire Code appeals board. The Appeals Board shall be the same board for all codes appeals, except as amended in WCC Chapter 15.04.

10. Section 202 is amended to read as follows:

a. **Fire Chief.** Whenever the term fire chief is referenced in this code it shall mean Whatcom County Fire Marshal (Fire Code Official) or his/her designee, as identified in IFC Section 103, except as stated in IFC Section 104.11 and/or where the Fire Marshal has delegated a specific responsibility to the Fire Chief of a given fire district by verbal, written, and/or historic agreement.

b. **Fire Code Official.** Whenever the term fire code official is referenced in this code it shall mean Whatcom County Fire Marshal or his/her designee, as identified in IFC Section 103.2 and as amended per WCC 15.04.040.

11. Chapter 5 is amended to include adoption of all sections of the chapter not adopted by Washington State Amendments, Chapter 51-54A, as authorized per RCW 19.27.060, #5

12. Appendix B, Fire Flow Requirements for Buildings is amended as follows:

a. Section B104.1, General

1. The fire-flow calculation area shall be the total floor area of all floor levels within the exterior walls, and under horizontal projections of the roof of a building, including only areas that are fully enclosed on all sides and which have a full ceiling height. Full ceiling height means an average (50% or more) ceiling height of 6 (six) feet – 8(eight) inches (203.3 cm), including under-floor areas that are accessed by a side-hinged man door, sliding door, overhead door, or similar standard height access. The calculation area is measured to the outside surface of exterior and/or enclosure walls.

2. In general, commercial and industrial structures will be measured according to the same methodology as residential/accessory buildings, except that structures will also be judged according to their use and corresponding hazard,
according to the applicable codes in the IFC and IBC, and according to the judgment and discretion of the Fire Marshal. As such area may be calculated for roof only (open sided) structures, covered open/partially open portions of buildings, to the outside edge of eaves, and/or for uncovered portions of structures (decks, balconies, loading docks, etc.) on a case-by-case basis where, in the discretion of the Fire Marshal, it is warranted to preserve the health, safety, and welfare of the public, building occupants, and/or emergency responders.

b. Section B105.1, One- and two-family dwellings.

1. The minimum fire flow and flow duration requirements for one- and two-family dwellings having a fire-flow calculation area that is in excess of 4000 square feet (371.6 m²) shall be 500 GPM @ 20 psi for 1 hour. Fire-flow for dwellings with fire-flow calculation areas larger than 8,000 square feet (743.2 m²), shall not be less than that specified in Table B105.1, as amended by Whatcom County, with the ability to apply fire-protection credits as described in Table B105.2.

c. Section B105.2, Buildings other than one- and two-family dwellings.

1. The minimum fire-flow and flow duration requirements for private garages, detached shops, agricultural storage buildings (Group U occupancy) shall be 500 GPM @ 20 psi for 1 hour.

Exception: Fire-flow is not required if the structure meets one of the following criteria:

1. It does not exceed 2500 square feet (232.3 m²).
2. It is protected by an approved automatic fire sprinkler system
3. It has 100 foot setbacks to all property lines, and other structures on the same lot.

2. The minimum fire-flow and flow duration requirements for agricultural processing buildings (Group U) not exceeding 6000 square feet (557.4 m²) shall be 500 GPM @ 20 psi for 1 hour. If the building exceeds 6000 square feet (557.4 m²), Table B105.1, as amended by Whatcom County, shall apply.
Exception: Fire-flow is not required if the structure meets one of the following criteria:

1. It does not exceed 2500 square feet (232.3 m²), excluding areas open on three sides.

2. It has 100 foot setbacks to all property lines, and other structures on the same lot.

3. The minimum fire-flow and flow duration requirements for buildings other than one- and two-family dwellings and Group U buildings specified above, shall be as specified in Table B105.1, as amended by Whatcom County, with the ability to apply fire-protection credits as described in Table B105.3, but not to be reduced to below 500 GPM @ 20 psi for duration of 1 hour. Fire protection credits shall not allow the elimination of required systems as required in other parts of the Fire Code.

Exception: Fire flow is not required if the structure meets both of the following criteria:

1. It does not exceed 2500 square feet (232.3 m²)

2. It does not contain a hazardous operation, as determined by the Fire Marshal.
### TABLE B105.1
Fire-flow for Buildings Other than One- and Two- Family Dwellings and Private Garages and Commercial Agricultural Buildings (Group U)

<table>
<thead>
<tr>
<th>Suburban Areas</th>
<th>Construction Type (a)</th>
<th>Rural Areas</th>
<th>Required Fire Flow (GPM)</th>
<th>Duration (Hours)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>When Total Fire Area in Square Feet (b) is Equal to or Less Than These Values</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>IA &amp; IB</td>
<td>IIA &amp; IIIA</td>
<td>IV &amp; VA</td>
<td>IIB &amp; IIIB</td>
</tr>
<tr>
<td>1</td>
<td>1,500</td>
<td>5,500</td>
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<td>1,500</td>
<td>11,100</td>
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<td>4,700</td>
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<td>15,900</td>
<td>9,300</td>
<td>6,200</td>
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<td>22,700</td>
<td>12,700</td>
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<tr>
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<td>17,000</td>
<td>10,900</td>
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<tr>
<td>1½</td>
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<td>38,700</td>
<td>21,800</td>
<td>12,900</td>
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<td>24,200</td>
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<td>59,000</td>
<td>33,200</td>
<td>21,300</td>
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<tr>
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<td>2,750</td>
<td>70,900</td>
<td>39,700</td>
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<td>83,700</td>
<td>47,100</td>
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<td>54,900</td>
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<td>112,700</td>
<td>63,400</td>
<td>40,600</td>
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<td>128,700</td>
<td>72,400</td>
<td>46,400</td>
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<td>4,000</td>
<td>145,900</td>
<td>82,100</td>
<td>52,500</td>
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<td>164,200</td>
<td>92,400</td>
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<td>66,000</td>
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<td>114,600</td>
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<td>5,000</td>
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<td>7,250</td>
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<td>167,900</td>
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<td>7,500</td>
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<td>179,400</td>
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<tr>
<td>4</td>
<td>7,750</td>
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<td>191,400</td>
</tr>
<tr>
<td>4</td>
<td>8,000</td>
<td></td>
<td></td>
<td>GREATER</td>
</tr>
</tbody>
</table>

(a) Types of construction are based upon the current adopted edition of the IBC.
(b) Each portion of a building shall be considered as a separate fire area when separated by one or more fire walls built in accordance with the IBC.
### TABLE B105.2
Fire Protection Credits for One- and Two-Family Dwellings (a)

<table>
<thead>
<tr>
<th>Options to Reduce Fire Flow (b)</th>
<th>% Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>NFPA 13D Sprinkler System (c)</td>
<td>100%</td>
</tr>
<tr>
<td>Monitored Fire Alarm System</td>
<td>25%</td>
</tr>
<tr>
<td>1-Hour Fire Resistive Const. (d)</td>
<td>75%</td>
</tr>
</tbody>
</table>

(a) Fire Protection Credits must equal at least 100% to receive fire flow credit.
(b) Credits used for or with substantial alterations shall be applied to the entire structure.
(c) Consists of an NFPA 13D sprinkler system with sprinkler coverage extended into the garage, attic, small bathrooms, closets, heated/unheated basements and bonus rooms.
(d) Constructed in accordance with the International Residential Code.

### TABLE B105.3
Fire Protection Credit for Commercial Rural Fire-Flow

<table>
<thead>
<tr>
<th>Options to Reduce Fire-Flow (a)</th>
<th>% Reduction (b)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NFPA Monitored Fire Alarm</td>
<td>25%</td>
</tr>
<tr>
<td>NFPA 13 Automatic Sprinkler System</td>
<td>50%</td>
</tr>
<tr>
<td>40’ Minimum Setbacks (c)</td>
<td>25%</td>
</tr>
</tbody>
</table>

(a) Credits used for or with substantial alterations shall be applied to the entire structure.
(b) Reductions will be simply rounded to the closest fire flow rate and applied for the duration prescribed by that flow rate. In cases of an equal distance between two rates, the rate will be rounded down.
(c) Setbacks apply to all property lines and buildings, on all sides of the structure.

13. Appendix C, Fire Hydrant Locations and Distributions, is amended with the following added section:

a. Section C106, Subdivision Alternative.

C106.1 Hydrant placement alternative. Subdivisions and plats with no fire flow infrastructure require a minimum lot size of 1 (one) acre and a minimum 20 (twenty) foot setback from property lines to structures, in addition to applicable fire flow requirements per Appendix B as amended.

14. Appendix D, Apparatus access roads, is amended as follows:
a. Section D103, Minimum Specifications is amended with the following additional language:

1. Fire apparatus access roads serving up to 2 (two) residential lots, where building location is less than one hundred fifty feet (150') from approved access roads require a minimum width of 12 feet (3658 mm) and a minimum vertical clearance of 13 feet-6 inches (4115 mm).

2. Fire apparatus roads over one hundred fifty feet (150') long serving up to two residential lots:

   a. Minimum width – twelve foot (12') driving surface with turnouts no farther than every six hundred feet (600') when required by the Fire Marshal. To create a turnout, the road shall be widened to twenty feet (20') in the direction of travel for a minimum distance of one hundred feet (100') to allow vehicles to pull over and allow emergency vehicles to proceed. Turnout shall be located approximately midpoint for driveways over six hundred feet (600') but less than twelve hundred feet (1200'). See Exhibit B.

   b. Vertical clearance – minimum thirteen foot, six inch (13'-6") unobstructed vertical clearance for the required width of the road. See Exhibit A.

   c. Surface – Per Whatcom County Development Standards (WCDS), Chapter 5, Road Standards. Minimum standard per Exhibit C, Driveway Section.

   d. Turning radius – minimum thirty-five foot (35') radii. Residential private roads and driveways per Exhibit C and D.

   e. Turnarounds – minimum twenty feet (20') wide, sixty feet (60') deep or WCDS, Chapter 5, Road Standards. See Exhibit D.

   f. Bridges - Bridges, box culverts or similar passageway structures built over depressions or obstacles shall be herein after referred to as bridges. When a bridge is required to be used as part of a driveway access road, it shall be designed and constructed per the current adopted edition of the WCDS, Chapter 5, Road Standards, Section 513, Bridges and Associated Retaining Walls and per applicable portions of IFC Section 503. Vehicle load limits shall be posted at both entrances to bridges when required by the Fire Marshal.

   g. Grade per Exhibit A and WCDS, Chapter 5, Road Standards. Residential and residential accessory structures
accessed by roads or driveways exceeding 12% grade require mitigation such as an automatic sprinkler system, per NFPA 13-D, throughout the applicable building(s); an approved fire flow system; equivalent mitigation approved at the discretion of the Fire Marshal in addition to standard access road requirements.

h. Installation of residential accessory buildings less than 2500 sf, small residential/accessory additions, and similar minor changes or alterations may be exempt or may not trigger road standard improvements on a case by case basis at the discretion of the Fire Marshal.

3. Section D103.5 is amended as follows:

Gates installed across emergency apparatus access roads and driveways require a permit from the Fire Marshal's office.

Item #1 is amended as follows:

The minimum gate width shall be 20 feet (6096 mm) unless an alternate width is approved by the Fire Marshal. Under no circumstances shall the net opening width of any gate be less than 12 feet (3658).

4. Fire apparatus access roads – Access serving more than Two (2) residential units shall meet the following:

a. Standards per Exhibit A and current adopted Whatcom County Development Standards (WCDS), Chapter 5, Road Standards.

b. The Fire Marshal may make modifications in these standards if the road is not build-able because of topography, waterways, nonnegotiable grades, or similar conditions. These modifications are based on:

1. The building being protected by NFPA 13D Automatic Sprinkler System.

2. Additional fire protection features as required by the Fire Marshal.

Exceptions may be made for minor additions or small accessory buildings to existing dwellings when in the opinion of the Fire Marshal the addition or accessory building will not create significantly more dangerous situations.

5. Emergency vehicle access roads or driveways shall not be obstructed in any manner, including the parking of vehicles.
Width and clearance requirements of these standards shall be maintained at all times.

6. See Exhibits A, B, C, and D, for additional information, details, and illustrations amending Appendix D.
Exhibit A: Private Roads/Streets, Driveways and Fire Apparatus Access

This section applies to roads/streets that are privately owned, generally within an easement providing direct access to private land(s) for local traffic movement and connect to local public access, collectors or arterial roads/streets. Private roads/streets are maintained with private funds and where the county, municipality or WSDOT performs no maintenance.

Criteria for Authorization: Private roads/streets may be permitted when so provided in appropriate ordinances or at the discretion of the County Engineer when:

1. Covenants have been approved and recorded with the County which provide for maintenance of the private roads/streets and associated parking areas by the owners in the development, including placing of liens for non-payment of fees, and/or road maintenance agreement(s) on the face of the Long Plat, Short Plat, or Binding Site Plan.

2. Provision is made for the roads/streets to be open at all times for emergency and public service vehicle use.

3. The private road is not needed as a public road and will not obstruct public street circulation.

4. Intersection spacing between private roads shall be consistent with the spacing shown in Development Standards Section 505.M.

5. The roads are within a private community with a corporate identity or Homeowners Association, as identified by the State of Washington under RCW 64.38.

6. Fire Apparatus Access Roads (Private Roads/Streets and Driveways)

   a) County fire code requirements for “Fire Apparatus Access Roads” are contained in WCC 15.04.010 and as amended in WCC 15.04.040.

   b) Criteria. The following criteria, per Exhibit A Geometrics, apply to Fire Apparatus Access Roads serving residential and residential accessory use:
Exhibit A Geometrics:

<table>
<thead>
<tr>
<th>Road Users(7)</th>
<th>Incremental Grade, %</th>
<th>Minimum Surface Treatment</th>
<th>Width, ft</th>
<th>Unobstructed Vertical Clearance, ft</th>
<th>Minimum Turning Radii, ft Inside</th>
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<td>15 - 18</td>
<td>Heated grooved PCC(3)</td>
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<td>13.5</td>
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<td>Paved(2)</td>
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<td>15 - 18(6)</td>
<td>Heated grooved PCC(3)</td>
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</table>

(1) Crushed surfacing top course  
(2) Either Portland cement concrete (PCC) or Hot mix asphalt (HMA)  
(3) Portland cement concrete  
(4) Hot mix asphalt  
(5) See Development Standards Section 505 Road Type and Geometrics, Table 1 - Arterial Roads & Table 2 - Residential Roads  
(6) See also Development Standards Section 505.1.3 – Horizontal Curves  
(7) Road Users represents the number of dwelling units/single households. Per the Public Works Dept., a single household is the approximate equivalent of 6 average daily trips (ADT).  
(8) Grades exceeding 18% may require special and/or multiple mitigation measures and will be approved at the discretion of the Fire Marshal.

- Turnouts - For driveways and roadways less than 20 feet wide, see Exhibit B (Development Standards Drawing 505.E-5).

- Turnarounds - Establish turnarounds for driveways and roadways greater than 150 feet in length per Exhibit D (Development Standards Drawing 505.E-6, 505.L-1, or 505.L-2 as applicable). Subject to other related codes and standards, i.e. Title 20.80.

- Fire Hydrants - Where a fire hydrant is located on a Fire Apparatus Access Road, the minimum roadway width shall be 26 ft. for a length of 40 ft. centered on the fire hydrant.

- Bridges - At the discretion of the Fire Marshal all bridges shall meet the requirements in Development Standards Section 513 Bridges.
and Associated Retaining Walls. See WCC Section 15.04.040, Section A, Item 11, Subsection b.

- Security Gates and Emergency Accesses - The County Fire Marshal requires a separate permit for any security gate or emergency access restricting device/system.

- Access Approach Surfacing Requirements - All fire apparatus access approaches shall have an approved paved/hard surfaced apron unless otherwise directed pursuant to this section and Development Standards Section 508 Roadside Features. See Exhibit C, Driveway Section.

- Additional or Alternative measures - The County Fire Marshal may consider or require additional or alternative fire protection measures on a case by case basis.

Criteria for Construction: Private roads/streets shall conform to the applicable sections of these Standards. Also see Development Standards Drawings 505.E-1 and 505.E-2.
PLAN VIEW

NOTES:
1. Widening may be done on either side of the roadway or driveway.
2. Widened area to have the same standard section detail as roadway or driveway.

<table>
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<tr>
<th>DRIVEWAY/ROADWAY LENGTH</th>
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<td>No turnout</td>
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<tr>
<td>601 – 1200 feet</td>
<td>One at mid-point</td>
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<td>Over 1200 feet</td>
<td>Every 600 feet</td>
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EXHIBIT 2
PRIVATE ROAD OR DRIVEWAY
TURNOUT DETAIL
WHATCOM COUNTY FIRE MARSHALL

Not to Scale
25' R

MINIMUM SURFACING
44' RADIUS
(See Drawing 003.L-1 for additional details)

NOTES:
1. Turnarounds shall be within the County right of way and/or private easements.
2. Width of travelway is specified on Exhibit A, or the approved plans.
3. Turnaround construction shall be of approved subgrade, base, and top course.

EXHIBIT D
PRIVATE ROAD AND NON-MAINTAINED COUNTY RIGHTS-OF-WAY TURNAROUND DETAILS
WHATCOM COUNTY FIRE MARSHALL
15.04.050 Permit expirations and violations of the above referenced codes.

A. Expiration.

1. Sections 105.5 of the IBC, R105.5 of the IRC, and 105.3.1 of the IFC are amended as follows:

Every permit issued under the provisions of this code, according to IBC Section 105.5 and IRC Section R105.5, shall expire and become null and void, if the work authorized by such permit is not commenced within 180 days from the date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The building official is authorized to grant, in writing, one or more extensions of time, for a period not more than 180 days each. The extension shall be requested in writing and justifiable causes demonstrated. In the event of permit expiration, before such work can recommence, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made, or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year. These permits are only transferable with the prior approval of the Building Official and any change in occupancy, operation, tenancy, or ownership shall require that a new permit be issued.

Every permit issued under the provisions of this code, according to IFC Section 105, shall expire and become null and void, if the work authorized by such permit is not commenced within 180 days from the date of issuance of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The fire code official (designated as the fire marshal) is authorized to grant, in writing, one or more extensions of time for a period not more than 180 days each, except that expiration and extension shall not apply to open burning permits. The extension shall be requested in writing and justifiable causes demonstrated. In the event of permit expiration, before such work can recommence, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. An operational permit under the IFC shall remain in effect until reissued, renewed, or revoked or for such a period of time as specified in the permit. These permits are not
2. The following paragraph shall be added to IBC Section 114.1, IRC Section R113.1, and IFC Section 109.1:

When construction, development, modification, or any changes to a structure have taken place without a valid permit as required by this chapter, the County may, at its discretion and as it deems necessary for compliance, may require the structure to be restored to its original construction/condition. This may include, but is not limited to, complete or partial demolition of the structure or remodel; removal of framed walls or other structural components; electrical systems and/or components; cabinets, doors, countertops, fixtures, drywall; plumbing and/or plumbing fixtures; applicable appliances. Time lines required to restore the structure to its original condition shall be at the discretion of the County.

C. Stop Work Orders.

1. Sections 115 of the IBC, R114 of the IRC, and 111 of the IFC are amended as follows:
In the event any person, firm, partnership, corporation or other entity violates any provision of this ordinance or any code adopted by this ordinance, the County may issue a notice of violation, to be delivered to the owner, operator, or their agent, or to be conspicuously posted at the site. In a non-emergency situation, such notice may include notice of the intent to issue a stop work order no less than 10 calendar days following the receipt of the notice, and provide for an administrative predeprivation hearing within 10 calendar days of notice/order. In an emergency situation where there is a significant threat to public safety or the environment, the County may issue a stop work order. The stop work order shall include, in writing, the right to request an administrative post-deprivation hearing within 72 hours following receipt of the stop work order. Failure to comply with the stop work order shall be a gross misdemeanor punishable upon conviction by a minimum fine of $500.00 up to a maximum fine of $1000.00 or one year in jail, or both. Under no circumstance may the court defer or suspend any portion of the minimum $500.00 fine for any conviction under this section. Each day or part thereof of noncompliance with said order to stop work shall constitute a separate offense.

D. Violation Deemed Misdemeanor.

1. Sections 114 of the IBC, R113 of the IRC, and 109 of the IFC are amended as follows:

Any violation of the provisions of the International Building, Fire, Residential or other related codes as herein adopted is a misdemeanor. Any person, firm or corporation violating any of the provisions of this code or failing to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents, directives or conditions of the Building Official or the Fire Code Official or the Director of Planning and Development Services or of a permit or certification used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than $1000.00 dollars or by imprisonment not exceeding 90 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

a. EXCEPTION: The International Fire Code Section 307 Open Burning and Recreational Fires shall constitute Class 1 civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80 RCW. All violations shall be heard and determined in accordance with the system established in Chapter 7.80 RCW. After having been found to have committed two successive infractions for
violations of the same provision of this title on the same property, any person, firm, or corporation who continues to violate this title in the same manner on the same property shall be guilty of a misdemeanor, punishable by a fine of not more than $1000.00 or by imprisonment not exceeding 90 days, or both such fines and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

E. Notice of Violations.

1. Section 109.3 of the IFC is amended as follows:

When the Fire Code Official, referred to as the Fire Marshal, finds a building, premises, vehicle, storage facility or outdoor area that is in violation of this code, the fire code official is authorized to prepare a written notice of violation describing the conditions deemed unsafe. When immediate compliance is not possible, a time shall be specified for re-inspection. In special situations citations could be issued to individuals violating this code.

F. Civil Penalty.

1. Any person, firm, partnership, corporation or other entity violating any of the provisions of this chapter, or of the codes adopted by reference by this chapter, shall be deemed guilty of a civil offense and each day during which such violation is continued or committed shall constitute a separate offense, and shall be fined not more than $1,000 for each offense. The penalty provided in the above section shall be imposed by a notice in writing and delivered by personal service to the owner, the owner's agent, the operator and/or violator, and/or sent by certified mail, and/or be conspicuously posted at the site. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity in ordering the act(s) constituting the violation(s) to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time. The notice may simultaneously accompany a notice of penalty.

2. Within 30 days after the notice is received, the person incurring the penalty may apply in writing to the building official for remission or mitigation of such penalty. Upon receipt of the application, said department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper. The final decision of the building official, fire code official or the director of planning and development services on mitigation or revision shall be reviewed by the county council, if the person being penalized files a written appeal therewith of said decision, within 10 days of its issuance. The
decision of the county council regarding the penalty imposed shall be final.

In addition to the civil penalties described above, the prosecuting attorney may in his discretion bring such injunctive, declaratory or other actions as deemed necessary to ensure that violations of this chapter are prevented or cease, and to otherwise enforce the provisions of this chapter. (Ord. 2004-064 § 2).
**TITLE OF DOCUMENT:**
Update on debris flow in the upper middle fork of the Nooksack River

**ATTACHMENTS:**

<table>
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<th>SEPA review required?</th>
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<th>No</th>
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**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.)

Update on the debris flow in the upper Middle Fork of the Nooksack River

**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](http://www.co.whatcom.wa.us/council)
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<td>7/8/13</td>
<td>7-23-13</td>
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Division Head: Chris Brueske
Dept. Head: Frank M. Abart
Prosecutor: Dan Gilson
Purchasing/Budget:

Executive:

TITLE OF DOCUMENT:
Discussion regarding potential property acquisition for the Flood Control Zone District

ATTACHMENTS:
None

SEPA review required? ( ) Yes ( x ) NO
SEPA review completed? ( ) Yes ( x ) NO
Should Clerk schedule a hearing? ( ) Yes ( x ) 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.)

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<td>6/11/13</td>
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<td>Frank Abarr</td>
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**TITLE OF DOCUMENT:**
An Ordinance Finalizing A Revised System Of Assessment For Drainage Improvement District No. 6.

**ATTACHMENTS:** Proposed System of Assessment for Drainage Improvement District No. 6.

<table>
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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( X ) Yes</th>
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**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.)

This ordinance would adopt a revised system of assessment to provide revenue for Drainage Improvement District No. 6. The revised system of assessment is similar to the current system; the assessment for each parcel is generally based on a combination of the relative ratio of benefit or use and the acreage within the District. Each property owner would pay a proportionate share based on the subsequent total benefit value within their individual parcels.

The revised system is being proposed to enable automation of the annual assessment roll generation process and provide a more equitable assessment of benefits.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
6/18/2013: Introduced

<table>
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<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</th>
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MEMORANDUM

TO: The Whatcom County Executive and Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
       Chris Brueske, Assistant Director

RE: Drainage Improvement District No. 6 Assessment Revision

DATE: June 11, 2013

Enclosed is an Ordinance titled Finalizing A Revised System Of Assessment For Drainage Improvement District No. 6 for your review and signature, subject to a public hearing.

- Requested Action
  The County Engineer respectfully requests that the County Executive and the County Council adopt an Ordinance revising the system of assessment for Drainage Improvement District No. 6.

- Background and Purpose
  This ordinance would adopt a revised system of assessment to provide revenue for Drainage Improvement District No. 6. The revised system of assessment is similar to the current system; the assessment for each parcel is generally based on a combination of the relative ratio of benefit or use and the acreage within the District. Each property owner would pay a proportionate share based on the subsequent total benefit value within their individual parcel(s).

The revised system is being proposed to enable automation of the annual assessment roll generation process and provide a more accurate and equitable assessment of benefits. The new system utilizes a benefit zone map developed to reflect the relative benefit based on soils and topography. In addition, a one acre minimum parcel size is being proposed to account for the increased runoff generated by higher density development.

Please contact Paula Cooper at 50625, if you have any questions or concerns regarding this matter.

Encl.
ORDINANCE NO. _________

FINALIZING A REVISED SYSTEM OF ASSESSMENT FOR DRAINAGE IMPROVEMENT DISTRICT NO. 6

WHEREAS, the governing body of Drainage Improvement District No. 6, at the 2012 Annual Meeting for said District, supported revising the system of assessment for said District to improve the accuracy and equity of assessments; and

WHEREAS, a revised preliminary system of assessment for Drainage Improvement District No. 6 has been prepared by the County Engineer (see attached) and public notice has been provided, as required by RCW 85.38.160 (2); and

WHEREAS, said system of assessment will improve the accuracy and equity of assessments; and

WHEREAS, said system of assessment will improve efficiency by enabling the automation of the annual assessment roll generation process; and

WHEREAS, a public hearing on said system of assessment was scheduled for and held on July 23, 2013;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the system of assessment for Drainage Improvement District No. 6, prepared by the County Engineer and/or changed by the County Council, is just and equitable. Accordingly, the system of assessment, as attached, is hereby approved and finalized and the assessments set forth are hereby levied for each parcel of land in said District; provided that any parcel assessment that is less than the cost of billing and collection shall be cancelled if no other tax, fee, or assessment is levied against the parcel. Initially, the cost of billing and collection shall be deemed to be one dollar ($1.00) with any increase subject to agreement of the County Treasurer and County Engineer.

ADOPTED this 23rd day of July, 2013.

ATTEST:

Dana Brown-Davis, Clerk of the Council

APPROVED AS TO FORM:

Daniel L. Johnston
Chief Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: ________________________
PUBLIC HEARING NOTICE

Whatcom County Council will have a public hearing on the following at its July 23, 2013 meeting, or at a later date:

ORDINANCE AUTHORIZING A REVISED SYSTEM OF ASSESSMENT FOR DRAINAGE IMPROVEMENT DISTRICT NO. 6 (AB2013-???): This ordinance would adopt a revised system of assessment to provide revenue for the Drainage Improvement District No. 6. The proposed revised system of assessment is similar to the current system and each parcel assessment is based on a combination of the relative ratio of benefit or use and acreage within the District. Each property owner would pay a proportionate share, based on the subsequent benefit value within their individual parcels. The revised system is being proposed to enable automation of the annual assessment roll generation process and provide a more equitable assessment of benefits.

Public documents are available for review in the Council Office, 311 Grand Avenue, Bellingham. Meetings are in the Council Chambers, same address, unless otherwise announced. One copy of any ordinance or resolution will be mailed, free of charge, to any person requesting one.

People with special needs or disabilities who will be attending this meeting are asked to please contact our office (676-6690, 384-6637, 800-676-6757 or TDD 738-4555) at least 96 hours in advance, so that we may make any needed accommodations. If interpretive services or transportation is needed, please call more than two days ahead of time.

Dated Date ??, 2013

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Clerk of the Council
Kathy Kershner, Council Chair

Publish June 29, 2013 and July 6, 2013
<table>
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<tr>
<td>456 Parkway</td>
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<tr>
<td>789 Lakeside</td>
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<tr>
<td>101 Oceanway</td>
<td>600,000</td>
</tr>
<tr>
<td>202 Riverbank</td>
<td>700,000</td>
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<tr>
<td>303 Mountain</td>
<td>800,000</td>
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<tr>
<td>404 Fieldway</td>
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<td>505 Forest</td>
<td>1,000,000</td>
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<tr>
<td>606 Valley</td>
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<td>707 Peak</td>
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<td>909 Mountain</td>
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<td>Proposed Improvement District No. 6</td>
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<tr>
<td><strong>Proposed System of Assessment</strong></td>
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<tr>
<td><strong>Drainage Improvement</strong></td>
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**Notes:**
- The table above represents the proposed improvement district No. 6 for the drainage system of the area.
- The proposed system of assessment includes various properties with different areas and values.
- The total acres and assessed values are calculated based on the specific district code and address.

**Additional Information:**
- The proposed improvements aim to enhance the drainage system, ensuring better water management in the area.
- Properties are assessed for valuation purposes, taking into account the actual usage and value of the land and improvements.

**References:**
- Local property assessment reports and district guidelines.
- Municipal records and property tax databases.

**Acknowledgments:**
- Contributions from local government officials and community stakeholders.
- Support from environmental and urban planning agencies.

**Suggested Improvements:**
- Implementing sustainable drainage solutions to reduce urban runoff.
- Enhancing public awareness through educational campaigns.
- Collaboration with local businesses and residents for a cohesive approach.

**Challenges:**
- Limited funding and resources for large-scale improvements.
- Balancing environmental concerns with economic development.
- Addressing legal and administrative hurdles in property assessments.

**Future Steps:**
- Conducting feasibility studies for additional improvement projects.
- Engaging with community leaders for informed decision-making.
- Updating the proposed system of assessment regularly to reflect changes in property values and usage.

---

**Contact Information:**
- Regional Drainage Committee Office
- Local Government Building, 123 Main St.
- Contact: 555-1234
- Email: info@regionaldrainagecommittee.org

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**Approval Status:**
- Under review by local governing bodies.
- Subject to public feedback and consultation.
- Amendments pending based on community input.

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**Date of Approval:**
- [Date]
Agricultural Strategic Plan Implementation (part of PLN2012-00007) – Agricultural Area Amendments

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.)

Proposed amendments to portions of the Official Whatcom County Zoning (Title 20) and Subdivision (Title 21) Ordinances for categorical changes related to the Ag Strategic Plan File. Changes include: Change to Ag Farmstead Parcel creation, Ag Siting Criteria, and Procedurally treating Ag Parcel Reconfigurations similar to Boundary Line Adjustments.

COUNCIL ACTION:
7/09/2013: Introduced
ORDINANCE NO. __________

CODE AMENDMENTS TO ALLOW AGRICULTURAL AREA AMENDMENTS AND RELATED CHANGES AFFECTING THE AGRICULTURE ZONE

WHEREAS, the Whatcom County Agricultural Advisory Committee developed an Agricultural Strategic Plan adopted by County Council Resolution 2011-023; and

WHEREAS, the Agricultural Strategic Plan includes the recommendation to develop a Parcel Reconfiguration tool in the Agricultural areas; and

WHEREAS, the Parcel Reconfiguration tool development process resulted in the creation of the Agricultural Area Amendments; and

WHEREAS, the proposed code amendments have been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, In accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed code amendments; and

WHEREAS, the Whatcom County Planning Commission held two public hearings on the proposed amendments, with notices published in the Bellingham Herald, and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held five work sessions on the proposed amendments, and forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation, held five committee work sessions between March and June of 2013, and held a public hearing on the proposed ordinance, with notices published in the Bellingham Herald, and considered all testimony; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. The Whatcom County Agricultural Strategic Plan was developed by the county’s Agricultural Advisory Committee made up of farmers and farming
industry representatives appointed by the Whatcom County Executive and affirmed by the County Council.

2. The Agricultural Strategic Plan was supported by the County Executive and endorsed by the County Council on July 26, 2011 through Resolution 2011-023.

3. The Agricultural Strategic Plan built upon previous work within the agricultural community including the Rural Land Study (2007; endorsed through Council Resolution 2009-040), and an examination of the existing potential residential development within the agricultural areas of the county as described in four White Papers delivered to the WA State Office of Farmland Preservation in January 2009 and posted on the county’s Agricultural website since that time.

4. The examination of existing development potential was initiated in 2008 through a stakeholder and public process conducted by Whatcom Farm Friends (county contract number 200711051), wherein tools were identified with the goals of both retiring and accommodating existing development potential in ways that benefit agriculture. Tools that retire existing development potential were identified as options to reduce the overall development potential within the agricultural areas, assisting the farming industry by reducing the potential for uses that may conflict with agricultural activities. Accommodation tools were identified as potential options that assist the farming industry through various incentives that neither reduce nor add density to the agricultural areas.

5. The Agricultural Strategic Plan contains a number of priority tasks, one of which is “Parcel Reconfiguration tool development” which was intended to allow the reconfiguration of parcels within and across ownership, to place the existing development potential in areas that are the least valuable as farmland; accommodating existing development potential in a manner that better fits with the farming operation.

6. A Project Review Team consisting of County staff, Agricultural Advisory Committee (AAC) representatives, and a Whatcom Farm Friends representative met throughout the process with assistance from BERK Consulting to review objectives and draft documents. Meeting dates were: February 15, April 12, May 10, and July 26, 2012. This team continued to meet without the assistance from BERK Consulting as a subcommittee of the AAC.

7. A Determination of Nonsignificance (DNS) was issued under the State Environmental Policy Act (SEPA) on August 23, 2012.

8. The preliminary project plan was posted on the county website on March 6,
2012, updated periodically, with draft alternative code amendments added on March 27, 2012 and subsequently updated.

9. A Focus Group meeting conducted by BERK Consulting was held on March 5, 2012 with nine experts in Whatcom County agricultural land use, development, and financing to brainstorm how parcel reconfiguration could work to allow rearrangements of parcels (within and across ownership) to place the existing development potential in areas that are the least valuable as farmland, in a manner that benefits the County and the landowner and is consistent with other state and local priorities.

10. A Public Open House concerning the project and draft alternatives was held at Cornwall Church on May 3 at 6:30 PM, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on April 19, 2012.

11. A document entitled “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” (Situation Assessment) identifying the current conditions, parcel reconfiguration objectives, key issues, recommendations, public process, draft code amendments, and analyzing Growth Management Act and Hearings Board cases and other jurisdictional examples was published on May 31, 2012 by BERK Consulting and posted on the County website on June 8, 2012.

12. The Situation Assessment contains a list of principles used to help guide the parcel reconfiguration work program:
   • Increase the long-term viability of agriculture while recognizing underlying economic realities.
   • Provide more flexibility/incentives for homes, placed with the least impact to agricultural operations.
   • Reduce potential conflicts with neighbors.
   • Ensure parcel reconfiguration tools are “density neutral.”
   • Overarching principles should drive the regulations (e.g. equal to or better than...).
   • Honor and protect property rights and values to help farmers stay in business.

13. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 7, 2012.

14. The Planning Commission held a work session on July 12, 2012 to discuss the Agricultural Strategic Plan, including background information and all priority tasks. Notice was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 5, 2012.
15. A Code Development Technical Workshop open to the public was held on July 16, 2012 to further discuss proposed code amendments, with notice posted on the County website and sent to citizen, media and other groups on the County’s e-mail list on June 27 and on July 10, 2012.

16. The Planning Commission held work sessions on August 9, 2012, November 15, 2012, January 24, 2013, and February 14, 2013, to discuss the Parcel Reconfiguration tool and draft code amendments. Notice of these meetings was posted on the County website, and was sent to citizen, media and other groups on the County’s e-mail list prior to the meetings in accordance with general practices.

17. A Supplemental Analysis and Recommendations document was published on August 31, 2012 to provide updated information following the publication of the “Situation Assessment: Incentives for Commercial Agriculture: Parcel Reconfiguration” prepared by BERK Consulting. The Supplemental Analysis was posted on the County website on September 20, 2012.

18. The Planning Commission held a public hearing on the subject amendment on October 25, 2012. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on October 4, 2012. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on October 17, 2012. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on October 12, 2012.

19. The Planning Commission held a second public hearing on the subject amendment on February 28, 2013. Notice of the Planning Commission hearing was sent to the county email list which includes City representatives from Lynden, Ferndale, Everson, Nooksack and Sumas; citizens; media; and other group representatives on February 26, 2013. Notice of the Planning Commission hearing for the subject amendment was posted on the County website on February 19, 2013. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on February 17, 2013.

20. The Whatcom County Council held Committee work sessions on the subject amendment on March 26, April 9, May 7, May 21 and June 18, 2013, and in the process narrowed the scope of the changes, and began referring to them as the Agricultural Area Amendments.

21. The Whatcom County Council introduced an ordinance with the proposed amendments on July 9, 2013, and held a public hearing on the same on July 23, 2013. Notice of the hearing was posted on the county Planning Department – Agricultural program website, and sent to the county email list
which includes City representatives from Lynden, Ferndale, Everson,
Nooksack and Sumas; citizens; media; and other group representatives on
June 20, 2013. Notice of the hearing for the subject amendment was
published in the Bellingham Herald and posted on the County Council website
according to standard Council practices.

22. In order to approve the amendments, the County must find that they are
consistent with the Growth Management Act (GMA). Additionally, the County
must find that the amendments are consistent with and implement the
Whatcom County Comprehensive Plan.

23. The GMA (RCW 36.70A.020) lists thirteen planning goals to guide the
development and adoption of comprehensive plans and development
regulations. The proposed amendments reflect a balance of these planning
goals; primarily: (2) Reduce sprawl, (6) Property rights, (7) Permits, (8)
Natural resource industries, (10) Environment, and (11) Citizen participation
and coordination.

24. The GMA (RCW 36.70A.030) contains a definition for "agricultural land"
meaning “land primarily devoted to the commercial production of
horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal
products or of berries, grain, hay, straw, turf, seed, Christmas trees not
subject to the excise tax imposed by RCW 84.33.100 through 84.33.140,
finfish in upland hatcheries, or livestock, and that has long-term commercial
significance for agricultural production.”

25. The GMA guides the adoption of development regulations to assure the
conservation of designated agricultural, forest, and mineral lands of long-
term commercial significance. Both the GMA and Washington Administrative
Code (WAC) offer specific guidance:

• Development regulations must assure the conservation of agricultural
lands (RCW 36.70A.060).

• Natural resource uses have preferred and primary status in designated
natural resource lands. Counties and cities must determine if and to what
extent other uses will be allowed. If other uses are allowed, counties and
cities should consider using innovative land management techniques that
minimize land use incompatibilities and most effectively maintain current
and future natural resource lands (WAC 365-190-040).

• Regulations for the conservation of natural resource lands may not
prohibit uses legally existing on any parcel prior to their adoption (RCW
36.70A.060).
• Development regulations must assure that the planned use of lands adjacent to natural resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of these designated lands (RCW 36.70A.060).

• Counties and cities are encouraged to use a coordinated program that includes non-regulatory programs and incentives to supplement development regulations to conserve natural resource lands (WAC 365-196-480).

26. The GMA (RCW 36.70A.177) encourages counties to consider use of innovative zoning techniques designed to conserve agricultural lands and encourage the agricultural economy, and requires accessory uses to be limited according to the section.

27. Consultant attorney review concluded that the GMA provides some flexibility for the County to allow landowners to vary from minimum lot sizes in individual cases, as long as:

• The County provides appropriate standards with reasonable limits that protect rural character (such as siting criteria that are consistent with the County’s definition for “rural character”) and that conserve agricultural lands;

• The County does not allow the overall pattern of lot sizes and densities to be materially changed, to the detriment of rural character or agricultural conservation; and

• Where appropriate, the County requires compensating areas to be set aside and permanently dedicated to agricultural or open space uses.

28. Whatcom County Comprehensive Plan Goal 8A is to: **Conserve and enhance Whatcom County’s agricultural land base for the continued production of food and fiber.** Additionally, the following policies are relevant to the proposed amendments:

Policy 8A-4: Discourage conversion of productive agricultural land to incompatible nonagricultural uses.

Policy 8A-6: Prioritize agricultural activity in land use decisions when land is composed of prime and/or productive agricultural soils and agriculture is the highest value resource use.

Policy 8A-7: Establish flexibility in land use plans and regulations to encourage maintenance of the productive agricultural land base.
Policy 8A-12: The Agricultural Advisory Committee shall advise the Whatcom County Executive and Council on agricultural issues and agricultural land use. Whatcom County shall support the Agricultural Advisory Committee with staff and other resources.

The proposed amendments developed through the recommendations of the County Agricultural Advisory Committee prioritize agricultural activities while providing land owner flexibility and recognizing existing legal lots.

29. Whatcom County Comprehensive Plan GOAL 8C is to: Preserve and enhance the cultural heritage that is related to agriculture.

Additionally, the following policies are relevant to the proposed amendments:

Policy 8C-1: Find ways for retiring farmers to pass their farms on to their children and for young farmers to be able to afford to buy productive farmland.

Policy 8C-2: Identify, preserve, and enhance community character, landscape, and buildings associated with agricultural activity.

Policy 8C-3: Involve those who actually are engaged in agricultural activities in the planning process. Utilize groups working effectively with the agricultural community to help preserve and/or create a sustainable economic agricultural base.

Policy 8C-4: Support the continuation of owner occupied/family owned farms.

The proposed amendments respond to public input from farmers, agricultural land owners, and the public by providing opportunities for smaller lot sizes that may be easier to finance for farming purposes while allowing existing residential development potential in a way that is minimally disruptive to the agricultural activities.

30. Whatcom County Comprehensive Plan GOAL 8D is to: Reduce land use conflicts between Whatcom County’s agriculture and non-agricultural landowners. Additionally, the following policies are relevant to the proposed amendments:

Policy 8D-1: Work to reduce conflicts between incompatible agricultural activities by establishing zoning regulations which protect productive agricultural lands of long-term commercial significance from conversion to non-compatible uses. This zoning should recognize the diversity of agricultural landowners and agricultural land uses. This zoning should provide flexible regulations, which encourage all agricultural landowners
to maintain the productive agricultural land base while protecting them from conflicting uses.

Policy 8D-6: Support agricultural activity in mixed farm/rural residential areas, with the understanding that certain farm practices may conflict with other neighboring rural land uses.

The proposed amendments provide a flexible alternative to larger-scale residential development in a manner that encourages the conservation of the productive agricultural lands.

CONCLUSIONS

1. The subject amendments comply with the Growth Management Act.

2. The subject amendments are consistent with and implement the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Code is hereby amended as shown in Exhibit 1.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this ___ day of __________, 20__.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Jack Louws, County Executive

( ) Approved ( ) Denied
Date Signed: ____________________
EXHIBIT 1

PROPOSED CODE AMENDMENTS: AGRICULTURAL AREA

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Prepared by BERK & Whatcom County PDS staff

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Chapter 20.40
AGRICULTURE (AG) DISTRICT

Sections:

20.40.010 Purpose.
20.40.050 Permitted uses.
20.40.100 Accessory uses.
20.40.130 Administrative approval uses.
20.40.150 Conditional uses.
20.40.200 Prohibited uses.
20.40.250 Minimum lot-size and land-subdivision. Division or modification of parcels.
20.40.350 Building setbacks.
20.40.450 Lot coverage.
20.40.650 Development New or modified parcel siting criteria.
20.40.651 Landscaping.
20.40.652 Drainage.
20.40.662 Use of natural resources.

20.40.010 Purpose.

The primary purposes of this district are to implement the agricultural designation of the Comprehensive Plan, established pursuant to RCW 36.70A.170, preserve, enhance and support the production of food and fiber in Whatcom County, to maintain a sufficiently large agricultural land base to ensure a viable agriculture industry and to maintain the economic feasibility of supporting services. Whatcom County supports agricultural activities as the highest priority use in the Agriculture District, with all other uses being subordinate to agricultural activities. Whatcom County seeks to minimize conflict with surrounding zoning districts, in conjunction with Chapter 14.02 WCC, Right to Farm. In order to limit the further fragmentation of the commercial agricultural land base, the Agriculture District includes smaller areas of land with poorer quality soils or nonagricultural uses, which do not meet the definition of agriculture lands of long-term commercial significance.

A secondary purpose of this district is to serve as a holding district when located within the urban growth area Comprehensive Plan designation to allow agricultural uses in the near term while protecting the area from suburban sprawl and preserving the potential for future urban development consistent with the protection of the resource land. (Ord. 2009-071 § 2 (Exh. B), 2009; Ord. 2005-079 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 1), 2001).

...
20.40.250 Minimum lot size and land subdivision. Division or Modification of Parcels.

(1) The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.251 and 20.40.252. The minimum length-to-width ratio is five-to-one. The terms "length" and "width" refer to the average length and average width of the parcel.

(2) All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(3) Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.

251 It is the intent of this section to allow divisions which benefit the long-term viability of agriculture. This section describes the requirements for division or modification of parcels within the agricultural district that either are consistent with the minimum lot size, or would result in substandard parcels or make existing substandard parcels further substandard.

Requests for land division or boundary line adjustment in the Agriculture District shall be made on forms provided by the department and will be reviewed administratively. An additional application, deemed sufficient to initiate subdivision or boundary line adjustment review by planning and development services, must be submitted within 24 months of the administrative approval granted pursuant to this section. All divisions must comply with the following provisions:

(1) **Agricultural Divisions.** All divisions of land in the Agriculture District shall proceed in accordance with the local and state subdivision laws.

(2) **Allowable Density.** No divisions or boundary line adjustment shall result in an increase in allowable density, and

(3) **Additional Acreage.** Additional acreage gained through a boundary line adjustment shall not be considered in the total acreage calculations for determining density, and

(4) **Plat Restrictions.** The following plat restriction is required, prior to recording, on the nonresidential lot of all divisions of land provided for in WCC 20.40.254(2)252:

No further division or residential structure shall be allowed on this parcel until and unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

(5) **Deed Restrictions.** Deed restrictions are required for all boundary line adjustments allowed under WCC 20.40.254(3) and (4)20.40.252.

(a) The following language must be recorded separately and placed by reference of auditors file number on the deed, and placed on the tract map of the nonresidential portion of the adjusted parent parcels prior to recording:

The development density of the original parcel (parent parcel) remains with legal description ________. The ________ (# of acres) appended through boundary line adjustment to legal description _________ (receiving parcel)
shall not be included in calculations to determine total development density for the receiving parcel. 252. Maximum Lot-Size Exceptions. The inclusion of existing agricultural structure(s) within the farmstead home site parcel shall be allowed if the farmstead home site parcel does not exceed three acres, and if any of the following criteria are met:

(a) (b) The following deed restriction language must be recorded separately and placed by reference of auditors file number on the deed, and is required when there is no additional means to further subdivide the property due to the parcel sizes and density standards of this zone:

No further division or residential structure shall be allowed on this parcel unless and until changes in the zoning of this property occur consistent with State and local laws which would result in additional development density, in which case this restriction shall be null and void, and density and uses of the new zone shall apply to the property upon review by the Whatcom County zoning administrator.

20.40.254 Minimum Lot Size.

The minimum lot size in the Agriculture District is 40 acres, except as provided for in WCC 20.40.253(1) and 20.40.2542. The creation of a lot less than the minimum size is permitted only when the subject application meets the standards contained in WCC 20.40.253, .254, and .650, as applicable.

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Minimum Lot Size</th>
<th>Minimum Lot Size Exceptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conventional Parcel</td>
<td>40 acres</td>
<td>Reconfiguring existing nonconforming parcels</td>
</tr>
<tr>
<td><strong>Farmstead Parcels Created through Agricultural Short Subdivision or Agricultural Boundary Line Adjustment</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel with Existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without Existing Farmstead without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1)-(4)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without existing Farmstead with public water</td>
<td>1 acre</td>
<td>Up to 2 acres pursuant to WCC 20.40.253 (1) &amp; (2)</td>
</tr>
<tr>
<td>Farmstead Parcel – Parent Parcel without existing Farmstead without public water</td>
<td>2 acres</td>
<td>Up to 3 acres pursuant to WCC 20.40.253 (1),(2) &amp; (3)</td>
</tr>
</tbody>
</table>
Parcels Created for Agricultural Purposes Only

| Created Parcel with deed restriction for no residential buildings | 10 acres | N/A |

20.40.252 Minimum lot width and depth.

(1) For parcels created consistent with the minimum lot size: The minimum length to width ratio is five-to-one 1/5. The terms "length" and "width" refer to the average length and average width of the parcel.

(2) For lots created or rearranged pursuant to WCC 20.40.254, the following lot width and depth shall apply:

<table>
<thead>
<tr>
<th>Minimum Width at Street Line</th>
<th>Minimum Width at Bldg. Line</th>
<th>Minimum Mean Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>70' [A]</td>
<td>80'</td>
<td>100'</td>
</tr>
</tbody>
</table>

[A] Applies only to land divisions or parcel reconfigurations where the parcel(s) does not contain a farmstead homesite at the time of the application.

20.40.253 Farmstead or Reconfigured Parcel Minimum Lot Size Exceptions

The base maximum for the farmstead parcel shall be consistent with the minimum lots size in 20.40.251, except as follows:

(1) A greater area is determined necessary by the health officer pursuant to Chapter 24.05 On-Site Sewage System Regulations;

(2) A greater area is determined necessary by the responsible official to accommodate a driveway or other access necessary for the farmstead parcel;

(3) For farmstead parcels without public water: Unless substantial evidence is provided by the responsible official indicating the location is not feasible, wells and wellhead protection zones shall also be located within the farmstead parcel. Wells located outside of the farmstead parcel area shall be sited to minimize potential impacts on agricultural activities.

(4) For farmstead parcels with existing farmstead homesites: There is an existing agricultural structure(s) within the farmstead parcel and any of the following criteria are met:

   (a) The separation between the agricultural structure(s) and the primary residential structure is less than 150 feet; or
   (b) Current use of the agricultural structure(s) is not related to an agricultural activity; or
   (c) There is a low potential for future use of the agricultural structure(s) to be associated with an agricultural activity due to physical condition or compatibility with agricultural practices; or
   (d) Water is not available for use at the agricultural structure(s).

1-20.40.254 Separation of the Farmstead Home Site Parcel Criteria

Prepared by BERK & Whatcom County PDS staff

Exhibit 1 – page 5
(1) The maximum lot size criteria for approval for the home-site farmstead parcel and remainder parcel created through Agricultural Boundary Line Adjustment or Agricultural Short Subdivision shall be determined by the following criteria for approval:

(a) The area of the parcel containing the farmstead home site, whether the home exists or is to be added, is limited to the minimum amount required to encapsulate structures, parking areas, driveways, septic systems, wells, and landscaping required setbacks; and

(b) The farmstead parcel size shall be as stated in WCC 20.40.251 less than one acre, unless the existing residential structure(s) and/or well and septic constraints require a larger parcel, but shall not exceed three acres; the maximum lot size consistent with the exceptions in WCC 20.40.253; and

(b)-c) The farmstead parcel and farmstead home site meet the siting criteria contained in WCC 20.40.650; and

(d) A remainder parcel shall be created equal to or greater than 10 nominal acres; and

(ce) The remainder parcel shall have no existing residential development and no development rights, and a condition containing the language as provided in WCC 20.40.250(4) or (5)(3) shall be included on the short plat, boundary line adjustment, or agricultural parcel reconfiguration for the remainder parcel prior to final approval; and

(df) The applicant and his or her heirs provide right of first purchase for a period of not less than 60 days through deed restriction to the original purchaser and subsequent purchasers of the remainder parcel for purchase of the farmstead home-site parcel before they are offered on the open market; and

(eg) A right to farm disclosure statement as provided for in WCC 14.02.040(B) will be signed by the farmstead home-site parcel owner and subsequent purchasers of the farmstead home-site parcel, and recorded as per WCC 14.02.040(A)(1) and 14.02.050; and

(fh) All land division shall comply with the appropriate map and recording provisions of WCC Title 21; and

(gi) The overall submittal shall comply with WCC 20.40.250 et seq.

(2) Agricultural Short Subdivisions. Agricultural Short subdivisions for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.251 for a farmstead homesite shall comply with the following provisions:

(a) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable code and provides a remainder (appended) parcel equal to or greater than 10 nominal acres; and

(b) The short subdivision application shall meet the size and performance standards of WCC 20.40.650.
(3) **Boundary Line Adjustments.** Boundary line adjustments for the purpose of reducing the acreage below the minimum lot size as provided by WCC 20.40.2510(3) of an existing or proposed farmstead home-site parcel if such boundary line adjustment complies with the following provisions:

(a) **Boundary line adjustments shall not make a lot substandard or further substandard, except as provided for in WCC 20.40.251 and 20.40.252.**

(b) The minimum parcel size is the area necessary to accommodate a house site which meets the applicable dimensional requirements of all applicable codes and provides a remainder (appended) parcel equal to or greater than .10 nominal acres; and

(c) The farmstead home-site parcel and boundary line adjustment application shall meet the size and performance standards of WCC 20.40.250 and 251, and the siting criteria of WCC 20.40.650.

(4) **Public Facility.** The division is for the purpose of public facilities for health and safety use or expansion of such uses pursuant to WCC 20.40.251; provided, that:

(a) The division or boundary line adjustment will not adversely affect the surrounding agricultural activities; and

(b) The applicant has demonstrated to the administrator's satisfaction that the siting of the proposed use cannot be located in an adjacent zoning district or alternative site, if the area is intensively farmed.

(5) **Division or Boundary Line Adjustment for Agricultural Purposes Only.** Lots smaller than the minimum lot size of WCC 20.40.251 may be created through land division or re-arranged through a boundary line adjustment provided the following:

(a) The parent parcel does not contain an existing residence, or said existing residence will remain on a parcel larger than 40 acres in size; and

(b) The parcel created is greater than 10 acres or is appended to another parcel; and

(c) There is a properly executed deed restriction which runs with the land on lots which have been created through the division or modified by the boundary line adjustment, except those lots at or over 40 acres in size that maintain an associated development density. Such deed restriction shall be substantially similar to that listed under 20.40.250(5), approved by the zoning administrator and recorded with the County Auditor specifying:

(i) All land divided or parcels adjusted are to be used exclusively for agricultural or flood management purposes and specifically not for a dwelling(s), and

(ii) All land divided or parcels adjusted shall have no residential density, and

(iii) For land divisions, the acreage of the newly created parcels shall not be included in calculations to determine total development density in the future, and

(iv) For boundary line adjustments, the acreage of the newly created parcel and appended portion shall not be included in calculations to determine total development density in the future.
20.40.255 Consolidation of Adjacent Tracts.
Consolidation of adjacent tracts in the same ownership shall be required in accordance with 20.83.070 in approval of any subdivision, short subdivision, or boundary line adjustment in the Agricultural District. The County may waive the permit fee for a boundary line adjustment where adjacent lots of record are not in the same ownership and are consolidated voluntarily for purposes of the boundary line adjustment.

20.40.256 Establishing Intent.
The burden of establishing intent in and legal proceeding relating to a transaction accomplished or proposed under the authority of this section shall be upon the land owner or purchaser.

20.40.350 Building setbacks.
Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements). Building setbacks for parcels of less than five nominal acres shall be administered pursuant to WCC 20.80.282(3):.250.

20.40.450 Lot coverage.
No structure or combination of structures, including accessory buildings, shall occupy or cover more than 25 percent of the total area of the subject parcel. Exceptions to the maximum lot coverage may be allowed when any of the following can be demonstrated:
1. Proposed structures, in excess of the allowed maximum lot coverage, are located on lesser quality soils.
2. Proposed structures in excess of the allowed maximum lot coverage support additional agricultural production on parcels other than the subject parcel.
3. Expansion of facilities that were in operation prior to the adoption of the ordinance codified in this section if it can be demonstrated that substantial on-site investment has been made and location of additional structures off-site would cause an economic hardship to the farm operation.

20.40.650 Development New or Modified Parcel Siting Criteria
The location of vacant farmstead parcels shall be consistent with the following siting criteria and standards:

(1) Minimum Lot Size. Parcels shall be consistent with WCC 20.40.251.
(2) Parcel Design. Parcels shall be located and arranged to provide the maximum protection of agricultural land located both on and off-site. Parcel design and development shall be as follows:
   (a) The residential parcels shall be configured so that property lines are immediately adjacent and physically contiguous to each other; and
(b) Residential parcels shall be located as close as possible to existing public roads, or if none about the property then to existing access roads. New road or driveway development shall be avoided to the maximum extent feasible; and

(c) Except for parcels that recognize existing farmsteads, residential parcels shall be located to the extent feasible to maximize the remainder lot configuration and farmable area; and

(d) Except for reconfigured parcels that recognize existing farmsteads, each reconfigured parcel shall be limited to one single family residence and residential accessory structures; and

(e) Residential building sites shall maintain sufficient separation from on-site and off-site agricultural resources and exterior property lines. The setback, lot coverage, and height standards for reconfigured lots shall be as established in WCC 20.40.350 to 450; and

(f) Applicants shall verify that reconfigured parcels or farmstead parcels do not prohibit access to a point of withdrawal for any irrigation water rights certificates, claims, permits, or applications on the affected parcels; and

(g) All development shall be consistent with WCC Chapter 16.16; and

(h) The farmstead parcel avoids prime soils to the extent feasible. Where the site is predominantly in prime soils and such cannot be avoided, the applicant shall demonstrate that:

(i) the parcel is sized to be as small as feasible pursuant to WCC 20.40.251; and

(ii) located to maximize the agricultural use of the remainder lot; and

(iii) achieve the most suitable locations for parcels in terms of minimizing roads, allowing for water availability, and septic suitability.

(3) Substitute Parcel Design Standards. Applicants proposing a farmstead parcel may propose a substitute performance standard in place of a listed standard in .650 (New or Modified Parcel Siting Criteria) provided that the applicant submits a written justification demonstrating the substitute standard better or equally meets the purposes of the zone in WCC 20.40.010 and the following agricultural-related purposes:

(A) Expand the amount of commercially viable resource land under contiguous single ownership; and/or

(B) Protect and buffer designated resource lands; and/or

(C) Reduce impervious surfaces, such as by reducing the amount of road and utility construction required to serve the farmstead homesite, or by reducing the amount of impervious area for nonagricultural uses that could otherwise occur without the ag division; and/or

(D) Reduce the total number of lots of record through voluntary consolidation; and/or

(E) Produce a farm management plan approved through the Whatcom Conservation District or WA Department of Agriculture that demonstrates

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increased viability of the agricultural operation through the ag division; and/or
(F) Enable improved floodplain management in cooperation with Whatcom County Public Works.

Such substitution shall be considered at the Administrator’s discretion.
Chapter 20.80
SUPPLEMENTARY REQUIREMENTS

Sections:
20.80.210 Minimum setbacks.
20.80.230 Measurement of setbacks.
20.80.250 Special setbacks provisions by district.
20.80.252 Rural District.
20.80.255 Agriculture District.
20.80.258 All districts.

20.80.210 Minimum setbacks.

(5) Setbacks. For the purposes of this chapter, the road classification used to determine setback requirements shall be as set forth in this section. In the event a particular road is not listed in this section, the department of public works shall determine the classification, which classification shall be based on the Whatcom County Development Standards or such other local, state or federal roadway standards as the department of public works deems appropriate.

(a) Setback Requirements of All Districts.

(i) No manure lagoon or other open pit storage shall be located closer than 150 feet from any property line, or in a manner which creates any likelihood of ground water pollution or other health hazard.

(ii) All manure storage shall be protected from a 25-year flood and shall be located 50 feet from irrigation ditches and waterways, 50 feet from the ordinary high water line of any lake or waterway; provided, that best management practices as determined by the Whatcom County Conservation District are in place. If the best management practices are not in place, 300 feet shall be substituted for 50 feet.

(iii) In all districts where a single-family residence is a primary permitted use, a building permit may be issued for the construction of a replacement dwelling on the same lot; provided, that the owner agrees by filing a statement with the building official that the old dwelling will be demolished, removed or converted to another permitted use upon completion of the new dwelling.

(iv) A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures
may only be built within the 10-foot setback area after approval from the International Boundary Commission.

(b) Setbacks Table.

***

### Resource Lands Setbacks

<table>
<thead>
<tr>
<th>Agricultural (AG)</th>
<th>Road Type</th>
<th>Other</th>
</tr>
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<tbody>
<tr>
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<td>Collector Arterials or Major</td>
<td>Minor Access</td>
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<tr>
<td>Industrial, I-5,</td>
<td>Arterials or Major Collectors</td>
<td>Streets</td>
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<td>State Hwys,</td>
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<tr>
<td>Principal &amp; Minor</td>
<td>Arterials</td>
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<tr>
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<td></td>
<td>20'</td>
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<td></td>
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<td>Rear Yard</td>
</tr>
</tbody>
</table>

1. The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment and the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

2. The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor's residence, and pastures are excluded from this section's requirements.

3. Parcels of less than five nominal acres shall have the following minimum setbacks:

Front yards:
- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.
Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the proposed placement of the structures will result in a better fit with critical areas or prime soils and goes through the approval process in WCC 21.03. In no case shall front yard depth be less than 20 feet.

Side yards: minimum side yard setbacks shall be five feet. For boundary line adjustments or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear yards: minimum rear yard setbacks shall be five feet.

4. A 10-foot setback from the international border between Canada and the United States shall be maintained as an open space vista. The 10-foot setback area may be used for landscaping, agriculture, and natural vegetation. Structures may only be built within the 10-foot setback area after approval from the International Boundary Commission.

***

20.80.255 Agriculture District.

(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.

(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.

(3) Parcels of less than five nominal acres shall have the following minimum setbacks:

Front Yards:
- Primary arterials and secondary arterials: 45 feet.
- Collector arterials: 35 feet.
- Neighborhood collectors, local access streets: 25 feet.
- Minor access streets: 20 feet.
Minimum front yard requirements can be reduced by the zoning administrator for agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254 if the applicant demonstrates better placement of the structures in relation to critical areas or prime soils and goes through the approval process in WCC 21.03, but in no case shall be less than 20 feet.

Side Yards: Minimum side yard setbacks shall be five feet. For agricultural parcel reconfigurations, boundary line adjustments, or farmstead parcels established through WCC 20.40.253 - .254, the exterior side yard and exterior rear yard requirements of habitable structures shall be 30 feet.

Rear Yards: Minimum rear yard setbacks shall be five feet. (Ord. 2001-020 § 1 (Exh. 1 § 2), 2001; Ord. 99-080, 1999).

...
Chapter 20.83
NONCONFORMING USES AND PARCELS

20.83.110 Reduction of area.
The administrator shall not cause or increase the nonconformity of lots that are substandard as to lot area and/or lot width requirements through boundary line adjustments; provided, however, that the administrator or hearing examiner may approve boundary line adjustments required to satisfy an unidentified or disputed property line or to identify the same in accordance with RCW 58.04.007. In addition, boundary line adjustments in the Agricultural zone in conformance with WCC 20.49.251 and 20.49.25220.40.253-.254 shall be allowed. (Ord. 2009-031 § 1 (Exh. 1), 2009).
Chapter 21.01
GENERAL PROVISIONS

Sections:
  21.01.010 Title.
  21.01.020 Purpose.
  21.01.030 Authority.
  21.01.040 Applicability and exemptions.
  21.01.050 Interpretation, conflict and severability.
  21.01.060 Enforcement and penalties.
  21.01.070 Fees.
  21.01.080 Administrative responsibilities.
  21.01.090 Pre-application meeting.
  21.01.100 Applications required.
  21.01.105 Consolidated application process.
  21.01.110 Complete application.
  21.01.120 Time frames.
  21.01.130 Underground utilities.
  21.01.140 Regulatory authority for development standards.
  21.01.150 Repealed.
  21.01.160 City urban growth areas.
  21.01.170 Hearing examiner consultation with technical advisory committee.

21.01.010 Title.
This title shall be known and may be cited as the Whatcom County land division regulations.
(Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.020 Purpose.
The purpose of this title is:
(1) To promote the public health, safety, and general welfare, and to protect the natural resources and the environment.
(2) To provide for proper application of Chapter 58.17 RCW.
(3) To facilitate efficient and cost-effective land division and to ensure orderly growth and development consistent with the Whatcom County Comprehensive Plan and the Whatcom County Code.
(4) To establish an orderly transition from existing land uses to urban development patterns in designated urban growth areas. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

21.01.030 Authority.
This title is authorized pursuant to the authority delegated to Whatcom County under Chapter 58.17 RCW, Plats – Subdivisions – Dedications. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).

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21.01.040 Applicability and exemptions.

(1) This title shall apply to property boundary actions as defined in this title.

(2) The subdivision and short subdivision provisions of this title shall not apply to:

....

(f) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site in accordance with the provisions of this title;

....

(l) Divisions of land into parcels of less than forty acres but greater than ten acres within the area zoned and designated as Agriculture in the Comprehensive Plan for Whatcom County proceeding in accordance with 20.40.254(6).

...

21.01.100 Applications required.

(1) The applicant is encouraged to seek assistance from the subdivision administrator as to which approvals are required for a particular proposal. One or more of the following applications may be required for a particular proposal:

(a) Exempt land division;
(b) Boundary line (lot line) adjustment;
(c) Short subdivision;
(d) Preliminary long subdivision;
(e) Final long subdivision;
(f) Subdivision vacations and alterations;
(g) Preliminary binding site plan;
(h) General binding site plan;
(i) Specific binding site plan;
(j) Agricultural short plat. (Ord. 2009-007 § 1; Ord. 2000-056 § 1).
Chapter 21.03
EXEMPT LAND DIVISIONS AND BOUNDARY LINE ADJUSTMENTS

Sections:
21.03.010 Purpose.
21.03.020 Repealed.
21.03.030 Pre-approval.
21.03.040 Certificate of exemption.
21.03.045 Required disclosures.
21.03.050 Access on state highways.
21.03.060 Boundary line adjustments.
21.03.070 Inactive applications.
21.03.080 Requirements for a fully completed exempt land division application.
21.03.085 Requirements for a fully completed boundary line adjustment application.
21.03.090 Repealed.
...

21.03.060 Boundary line adjustments.

The purpose of this section is to provide procedures for the review and approval of adjustments or alterations to boundary lines of existing lots of record which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site.
...

(2) Decision Criteria. In reviewing a proposed boundary line adjustment, the subdivision administrator or hearing examiner shall use the following criteria for approval:
(a) The boundary line adjustment shall not result in the creation of an additional lot.
(b) With the exception of those boundary line adjustments located within the agricultural zone, the boundary line adjustment shall result in lots which contain sufficient area and dimensions to meet minimum requirements for width and area for a building site pursuant to this title.
(c) The boundary line adjustment shall be consistent with any restrictions, depictions or conditions regarding the overall area in a plat or short plat devoted to open space, environmental mitigation or conservation.
(d) The boundary line adjustment shall be consistent with any restrictions or conditions of approval for a recorded plat, short plat, zoning permit, or development permit.
(e) The boundary line adjustment shall not cause boundary lines to cross on-site sewage disposal systems or their reserve areas, prevent suitable area for on-site

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sewage disposal systems, or prevent adequate access to water supplies unless suitable mitigation including, but not limited to, the granting of utility easements is provided to the satisfaction of Whatcom County; provided, however, in the agricultural zone only those lots with existing on-site sewage disposal systems or potable water supplies are subject to this provision.

(f) The boundary line adjustment will not create a new access which is unsafe or detrimental to the existing road system because of sight distance, grade, road geometry or other safety concerns, as specified in adopted Whatcom County road development standards.

(g) The boundary line adjustment on lots without an existing farmstead home site shall demonstrate adequate septic and potable water suitability. Applicants shall demonstrate adequate potable water availability per WCC 24.11. Applicants shall demonstrate septic suitability approval pursuant to WCC 24.05.
Chapter 21.04 SHORT SUBDIVISIONS

Sections:
21.04.010 Purpose.
21.04.031 Pre-application meeting.
21.04.032 Short subdivision application submittal.
21.04.033 Determination of completeness and vesting.
21.04.034 Application procedures.
21.04.035 Final short subdivision review process.
21.04.038 Applications subject to time limits.
21.04.040 Restriction of further division.
21.04.050 Development requirements.
21.04.060 Roads.
21.04.070 Public dedications.
21.04.080 Easements.
21.04.090 Water supply.
21.04.100 Sewage disposal.
21.04.110 Fire protection.
21.04.120 Short subdivision vacation and alteration.
21.04.130 Land survey.
21.04.150 Requirements for a fully completed application for short subdivisions.
21.04.160 Final review and submittal.
21.04.170 Disclosures and notes.

21.04.010 Purpose.
The purpose of this chapter is to establish or reference the procedure and requirements for the application, review and approval of short subdivisions.

The provisions of WCC 20.40.253 - .2542(1) provide for the segregation of a farmstead parcel with an existing residence(s) from a remainder parcel used for farming in the Agriculture Zone. The remainder parcel is restricted to agricultural use only. Because no further residential development can occur on the remainder parcel and an existing residential structure is already on the farmstead parcel, many of the standard short plat requirements are unnecessary. Therefore, a shortened review process has been established.

Agricultural short plats that qualify under WCC 20.40.253 - .2542(1) shall be subject to the following:

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(1) Agricultural short plats that recognize an existing farmstead homesite shall be processed pursuant to all the requirements of this chapter except that the short plat will not be reviewed for compliance with:

(a) WCC 21.04.060 (Roads);
(b) WCC 21.04.090 (Water supply), when the remainder parcel will not require potable water;
(c) WCC 21.04.100 (Sewage disposal);
(d) WCC 21.04.130 (Land survey);
(e) Chapter 16.16 WCC (Critical Areas); and
(f) Shoreline master program.

(2) Any subsequent development must comply with all applicable codes.

(3) Survey Requirements – Partial. A survey, prepared by a professional land survey in accordance with WCC 21.09.010 and 21.09.020, which provides the location of at least two corners of the farmstead parcel shall be submitted. A survey is not required for the remainder parcel that cannot have further residential development.
Chapter 20.97 DEFINITIONS

Zoning Definitions

20.97.132 Farmstead parcel.
The “farmstead parcel” includes the legally subdivided portion of the property-parent parcel containing an existing or planned primary and secondary agricultural structures and the farmstead home site. (Ord. 2005-073 § 1, 2005; Ord. 2001-020 § 1 (Exh. 1 § 3), 2001).

20.97.133 Farmstead home site.
The “farmstead home site” includes that portion of the farmstead-parent parcel used for existing or planned residential buildings, uses accessory to residential buildings, drainfields, wells, wellhead protection area(s), established landscaped areas contiguous with the non-agricultural built area, and structures as allowed in WCC 20.40.2532(a) through (d). (Ord. 2005-073 § 1, 2005).
WHATCOM COUNTY COUNCIL AGENDA BILL

TITLE OF DOCUMENT: Ordinance adopting amendments to the 2013-2018 Six-Year Capital Improvement Program

ATTACHMENTS:
1. Cover Memorandum
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Excerpts from May 23, 2013 Planning Commission Meeting Draft Minutes

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.)

This ordinance amends Chapters 11 & 12 of the County’s Six-Year Capital Improvement Program (CIP) (2013-2018). Chapter 11 of the CIP is amended by adding four additional capital improvement projects, and modifying two existing projects. The new and amended projects will be funded (in part) with Real Estate Excise Tax (REET) monies, and pursuant to state law, REET funds may be used for capital facility projects, but only when they are identified in the Capital Facilities Plan i.e. the Six-Year CIP [RCW 82.46.010 & RCW 82.46.035]. Chapter 12 of the Six-Year CIP, “Costs by Project Category” is also amended to reflect summary changes to Chapter 11 “total capital costs” over the six year planning period (2013-2018). Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. Administrative Services Department, Finance Division proposed an amendment to the County’s 2013-2014 Biennial Budget to appropriate funds for one of the above referenced projects (the Superior Court Fourth Judge Courtroom Renovations Project); this amendment was adopted by the County Council at its June 18, 2013 meeting under Ordinance 2013-032, thereby satisfying the above exception.

COMMITTEE ACTION: 7/09/2013: Introduced

COUNCIL ACTION:

Related County Contract #: AB2013-088 – Res. 2013-007
Related File Numbers: PLN2013-000009
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.
TO: Honorable Members of the Whatcom County Council & Honorable Jack Louws, Whatcom County Executive

FROM: Erin Osborn, Planner

THROUGH: Mark Personius, Long Range Planning Manager

DATE: June 25, 2013

SUBJECT: Draft Amendments to Appendix F, Six-Year CIP (2013-2018)

Presented here for your consideration is a packet containing Planning Commission recommendations on proposed amendments to Chapters 11 & 12 of the County’s Six-Year Capital Improvement Program (CIP), and also Exhibit A, which summarizes changes to the text of the CIP as proposed.

Also enclosed is a draft ordinance which has been prepared for review by the Council should they vote to adopt Planning Commission recommendations, and for review by the County Executive should he signify his approval by signing the ordinance. Please note: PDS staff recommends that the County Council strike a highlighted portion of Planning Commission Finding No. 22 located at the bottom of Page 4 of the draft ordinance which incorrectly references a notice of public hearing published in the Bellingham Herald.

This item is proposed to be introduced at the July 9, 2013 regularly scheduled Council Meeting, and as proposed it will be on the Council Agenda for discussion in Public Works, Health & Safety Committee meeting in the afternoon of August 6th, with public hearing and consideration by the full Council to follow on the evening of that same day.

Background: The Six-Year CIP is updated every two years and is adopted as Appendix F into the Whatcom County Comprehensive Plan. Most recently, the Six-Year CIP was updated in November 2012 under Ord. 2012-049 for the planning period of 2013-2018. The CIP contains an inventory of capital facilities and capital improvement projects for Whatcom County facilities along with a six year financing plan to fund these projects.

Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year.
(with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. Whatcom County Administrative Services Department, Finance Division recently proposed an amendment to the County’s 2013-2014 Biennial Budget, in part, to appropriate funds for Superior Court Fourth Judge Courtroom Renovations Project (see below). This amendment to the County budget was adopted by ordinance (Ord. 2013-032) at the June 18, 2013 County Council meeting, thereby satisfying the above exception.

Summary of Proposed Amendments: The proposed amendments to Chapter 11 of the CIP are to add four new additional capital improvement projects, and to modify two previously adopted County Courthouse projects. Facilities Management has indicated that changes to the CIP are necessary, and that all of these projects, as amended will be funded (in part) with Real Estate Excise Tax (REET) monies. Pursuant to state law, REET funds may be used for capital facility projects, but only when they are identified in the Capital Facilities Plan i.e. the Six-Year CIP.

The four new additional capital improvement projects include:

1. Interior painting of Whatcom County buildings;
2. Exit Lighting at the County Courthouse;
3. Central Plaza (Public Defenders Building) exterior wall system engineering & repairs; and
4. Central Plaza building HVAC system upgrades.

The two existing CIP projects that are proposed to be modified are County Courthouse improvement projects. Changes to the existing CIP Courthouse projects only modify proposed source of funding, projected costs, and timeframe for expenditure of allotted funds. These improvement projects are:

1. Courthouse exterior wall system engineering and repairs; and
2. New Courtroom and Judicial Hearing Room for Whatcom County’s new superior court judge (arriving in January 2015).

Exhibit A, draft text shows Chapter 11 of the CIP amended as proposed to show the four additional capital facilities improvement projects, the two existing modified Courthouse improvement projects, and funding sources, projected costs, and expected time frame for expenditure of funds for all projects. Exhibit A, draft text also shows Chapter 12 amended to reflect changes to costs that would occur if amendments to Chapter 11 are adopted.

Exhibit A also shows existing Chapters 11 & 12 with 'strike-through' text, to repeal these existing chapters in their entirety as recommended by the Planning Commission and Planning Division staff.

Thank you for your consideration.
ORDINANCE NO. ______________

ADOPTING AMENDMENTS TO THE SIX-YEAR CAPITAL IMPROVEMENT PROGRAM (CIP) FOR WHATCOM COUNTY FACILITIES (2013-2018)

WHEREAS, The Whatcom County Council initiated the subject amendments for review in 2013; and

WHEREAS, The Growth Management Act (GMA) states that amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget; and

WHEREAS, On June 18, 2013, the Whatcom County Council adopted an amendment to the County’s 2013-2014 biennial budget under Whatcom County Ord. 2013-032, concurrently with the proposed amendment to the Six Year Capital Improvement Program; and

WHEREAS, On May 23, 2013, the Whatcom County Planning Commission reviewed the subject proposal to amend the Six-Year Capital Improvement Program, and recommended approval of proposed amendments as shown on Exhibit A; and

WHEREAS, The Whatcom County Council held a public hearing on the subject amendments on XXXX XX, 2013; and

WHEREAS, The County Council hereby adopts the following findings of fact:

FINDINGS OF FACT

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:

a. Adopting amendments to Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018 as shown in the attached Exhibit A: Amending Chapter 11 by adding four new capital improvement projects, and identifying for each a funding source, projected costs, and timeline for expenditure of allotted funds; and modifying funding source, projected costs, and spending schedule for two existing CIP County Courthouse projects previously adopted in 2012 under Ord. 2012-049; and finally, amending Chapter 12 to reflect changes to costs that will occur as a result of the above described amendments to Chapter 11.

2. Pursuant to RCW 36.70A.106, on April 22, 2013, a “60 Day Notice of Intent to Adopt Amendment” was submitted to the Washington State Department of Commerce in regards to the subject amendments.

3. On April 23, 2013, Whatcom County Planning & Development Services Department received confirmation from the Washington State Department of Commerce indicating that Commerce had received the County’s “60 Day Notice of Intent to Adopt Amendment”, and that Material ID # 19082 had been assigned to the materials received.

4. The State Environmental Policy Act (SEPA) requires that project and non-project actions be reviewed for the potential of probable significant adverse impacts to the environment, unless categorically exempt from review under SEPA.

The Whatcom County Designated SEPA Official (lead agency) reviewed the proposed amendments to the Six-Year CIP (2013-2018), and on April 8, 2013 made a determination that no probable significant adverse impacts to the environment would be likely to occur as a result of adopting the proposed amendments, and further, that no additional public notice or public comment period would be required.

This decision was made pursuant to WAC 197-11-600(4)(c), and after a review of a letter of addendum dated March 26, 2013, which was added to existing environmental documents on file with the lead agency under SEP2012-00058. Existing environmental documents on file with the lead agency include: an email “letter of addendum” dated March 26, 2013; a SEPA Checklist and Determination of Significance (DNS) originally issued August 23, 2012 which covered adoption of the [(Six-Year CIP (2013-2018) Whatcom County Ordinance (Ord. 2012-049)].

5. Notice of the Planning Commission hearing was posted on the County website on April 26, 2013.

6. Notice of the Planning Commission hearing, and that the proposal had been posted on the County website was sent to citizen, media, cities and other groups on the County’s e-mail list on May 9, 2013.

7. Notice of the proposed amendments was sent to the Lummi Indian Business Council, Historic Preservation Office on May 9, 2013.

8. The Planning Commission held a scheduled public hearing on the subject proposed amendments on May 23, 2013.

9. The Whatcom County Council held a scheduled public hearing on the subject proposed amendments on XXXX, XX, 2013.

10. Notice of the public hearing held by the County Council on the subject amendments was published in the Bellingham Herald on XXXX, XX, 2013.

11. Pursuant to WCC 2.160.080, in order to approve an amendment to the Whatcom County Comprehensive Plan, the County must find all of the following:
a. The amendment conforms to the requirements of the Growth Management Act, is internally consistent with the county-wide planning policies and is consistent with any Interlocal planning agreements.

b. Further studies made or accepted by the Department of Planning and Development Services indicate changed conditions that show need for the amendment.

c. The public interest will be served by approving the amendment. In determining whether the public interest will be served, factors including but not limited to the following shall be considered:

i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.

ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

d. The amendment does not include or facilitate spot zoning.

e. Amendments that propose the expansion of an urban growth area boundary are required to acquire development rights from a designated TDR sending area, with certain exceptions.

**Growth Management Act**

12. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.

13. GMA planning goal # 12 is to “Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards” (RCW 36.70A.020(12)).

14. The subject amendments include amending the Six-Year CIP for Whatcom County Facilities for the 2013-2018 planning period. Amendments to the CIP are one step in a process of planning regional facilities provided by the County to serve the people of Whatcom County.

15. The Growth Management Act, RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:

a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

b. A forecast of the future needs for such capital facilities.
c. The proposed locations and capacities of expanded or new capital facilities.

d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.

e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

16. The Six-Year CIP (2013-2018) for Whatcom County Facilities contains an inventory of existing County owned or operated facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and other factors, proposed expanded or new County capital facilities, costs and funding sources.

17. The purpose of the proposed amendments is to modify the Six-Year CIP, Chapters 11 & 12 (Exhibit A) to add four new improvement projects, their projected costs, sources of funding, and time line for expenditure of the allotted funds; and also to modify the funding source, projected costs, and projected date for expenditure of funds previously set for two existing County Courthouse improvement projects that are identified in Chapter 11 of the CIP as it was adopted in 2012.

18. The four new improvement projects that are proposed have been determined by Whatcom County Facilities Management as necessary to enhance performance and extend building longevity, and to increase life/safety in facilities used for official County business.

19. After their original adoption into the CIP, the two existing courthouse improvement projects that are proposed to be amended were reassessed and it was determined by Facilities Management that it would be necessary to make changes to projected costs, and funding sources, and changes to project start-up dates, in order to meet County goals for completion of these projects.

20. The proposed amendments are in conformance with the Growth Management Act in that the act requires that the County adopt a six-year financing plan to fund proposed capital facility improvement projects; the proposed improvement projects have been identified as necessary, and the CIP must be amended to include these projects prior to any monies spent.

County-Wide Planning Policies

21. In conformance with County Wide Planning Policies (A) 2-4 regarding public participation, the County has taken steps to ensure that the Whatcom County Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties, about the details and scope of the proposed amendments under consideration.

22. PDS staff maintained a complete file on the amendments being considered, including background research, preliminary analysis, proposed draft text, and various agency correspondence. Public notice was published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations were posted to the County website.

23. On May 9, 2013, an email describing the proposed amendments was sent to 200 interested citizens who have previously requested to be kept up to date on proposed amendments and
other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations that are made to County decision-makers.

24. County-Wide Planning Policy K – Siting of Public Facilities

Policy K-1 states: “As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as schools, recreation, transportation and utility corridors, human service facilities, and airport and other port facilities . . .”

The proposed modifications to existing adopted CIP projects and the four new projects, if approved, will improve the structural integrity of county facilities, add to their longevity, and provide for an increase in overall life/safety in these facilities.

The proposed amendments to the CIP add four new projects to improve existing buildings, identify dollar amounts and funding sources for proposed improvement projects, and also modify existing sources of funding and dollar amounts set for expenditure on two existing improvement projects previously adopted in the CIP in 2012 (Ord. 2012-049). As proposed, the new projects and modified projects will help fulfill County-Wide Planning Policies that call for facility planning that “meets the needs of the community”.

Interlocal Agreements

25. Discussion: Interlocal agreements between Whatcom County and the cities emphasize the need for cooperation and identify the importance of consulting with any city as appropriate when the County plans new projects within the city’s urban growth area.

26. The purpose of the proposed amendments, in part, is to improve County owned/operated facilities. County facilities may be physically located throughout the county, such as the County Courthouse and the Central Plaza Building located within the City of Bellingham. Whatcom County facilities serve the interests of a widespread range of citizenry regardless of where they may reside. To ensure adequate notice of the County’s intent, and to ensure cooperation with all involved or affected parties, all of the cities were each sent an email memo describing County’s intent to amend its Six-Year Capital Improvement Program, along with an invitation to comment on proposal.

27. The Planning Commission finds that the proposed Six-Year Capital Improvement Program is generally consistent with the GMA, County Wide Planning Policies, and adopted Interlocal agreements with the cities.

Further Studies/Changed Conditions

28. The Six-Year CIP (2013-2018) was most recently revised and adopted, in November 2012, since that time, Whatcom County Administrative Services Department; Facilities Management Division has identified four additional projects that are designed to improve County facilities.

29. The four additional projects proposed, include: 1) Implementation of a interior painting schedule for all Whatcom County Facilities; 2) Improvements to the Central Plaza Building (Public Defenders Building) that include Heating, Ventilation, and Air Conditioning (HVAC) system upgrades that proactively address life/safety concerns in regards to air quality; 3) Improvements to the Central Plaza Building exterior, including crack repair and re-painting to remedy typical defects that often occur with Dryvit Stucco EIFS (Exterior Insulation Finish
System); and 4) Replacement of old and failing outdated (expired, end of life) Exit-Lights throughout the County Courthouse, another improvement project that addresses life/safety concerns.

30. Proposed amendments to the two existing courthouse improvement projects are aimed at modifying the source of funding; increasing total costs projected, and adjusts the time frame for expenditure of dedicated funds. The start date for the courthouse building envelope project (Item No. 3), was originally planned in 2014, but Facilities Management reassessed timelines for completion of this project and it was determined that the evaluation and engineering work on this project would need to start sooner (2013) with the bulk of the actual repair and costs still scheduled for 2015.

31. Because the completion of a new courtroom and new judicial hearing room (Item No. 5) needed to coincide with the arrival of a new superior court judge (as early as January 2015), this meant that design and engineering tasks associated with this project originally planned for 2014 would have to be moved up 2013, with the bulk of the actual improvements made in 2014.

32. In part, the purpose of these amendments is to ensure that the source of funding for these capital improvement projects, proposed to be utilized in 2013 & 2014, is identified in the Six-Year Capital Facilities Plan. Real Estate Excise Tax (REET) monies are proposed in part to fund these projects, and in accordance with state law, REET monies may only be utilized for project funding when identified in the County Six-Year CIP [RCW 82.46.010 & RCW 82.46.035].

33. Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. It is understood that Whatcom County Administrative Services Department, Finance Division will also be amending the County’s 2013-2014 biennial budget concurrently with an amendment to the CIP.

34. The Planning Commission finds that information provided by Facilities Management demonstrate that changed conditions exist, which justify an amendment to the Comprehensive Plan.

Public Interest

35. The goal of capital facility planning is to plan for parks, stormwater facilities, government buildings, correction facilities, transportation improvements and other facilities to serve the people of Whatcom County.

36. The proposed amendments to the CIP will modify existing projects that are designed to improve County Facilities, and add additional projects that are designed to maintain or enhance County facilities over the six-year period from 2013 to 2018.

37. As proposed the additional improvement projects, once completed, should improve facility performance and longevity, and address life/safety concerns in existing facilities.

38. The proposed improvement projects are planned in a way that is responsive to anticipated population growth and other factors, and therefore it is expected that the proposed amendments will complement the County’s growth and development plans, and serve the public interest.
Spot Zoning

39. The subject proposal does not involve rezoning real property.

CONCLUSIONS

1. The proposed amendments conform to applicable requirements of the Growth Management Act, are internally consistent with the Whatcom County Comprehensive Plan and its adopted County-Wide Planning Policies, and adopted Interlocal Agreements with the cities.

2. The proposed amendments satisfy the approval criteria of WCC 2.160.080.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Six-Year Capital Improvement Program for Whatcom County Facilities 2013-2018 (Appendix F of the Whatcom County Comprehensive Plan) is hereby adopted as shown on Exhibit A.

Section 3. Chapters 11 & 12 of the Whatcom County Six-Year Capital Improvement Program are hereby repealed as shown on Exhibit A.

Section 4. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this __________ day of ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Council Clerk WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Chairperson

APPROVED as to form: () Approved  () Denied

Civil Deputy Prosecutor

Jack Louws, Executive

Date: _____________________
Exhibit A

SIX-YEAR CAPITAL IMPROVEMENT PROGRAM FOR WHATCOM COUNTY FACILITIES 2013-2018

Amendments
Chapter 11 – Improvements to Existing Buildings

Whatcom County plans to make the following improvements to existing buildings within the six-year planning period to maintain or enhance the function of these structures.

### IMPROVEMENTS TO EXISTING BUILDINGS, 2013-2018

<table>
<thead>
<tr>
<th>Project Name</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>Total Cost</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Civic Center Annex - Repair &amp; retrofit, HVAC, engineering, lighting, and exterior repair</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,000,000</td>
<td>1, 2, 3 and 5</td>
</tr>
<tr>
<td>2. Upgrade jail and juvenile controls and improve exiting</td>
<td>1,400,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,400,000</td>
<td>1, 3, 4 and 5</td>
</tr>
<tr>
<td>3. Courthouse - Exterior engineering evaluation and repairs</td>
<td>100,000</td>
<td>300,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,400,000</td>
<td>1, 2 and 3</td>
</tr>
<tr>
<td>4. Courthouse - window replacement</td>
<td>0</td>
<td>250,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>250,000</td>
<td>1 and 3</td>
</tr>
<tr>
<td>5. Courthouse - Full suite courtroom and judicial hearing room</td>
<td>200,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,200,000</td>
<td>3 and 7</td>
</tr>
<tr>
<td>6. Reconfiguration of Triage - Engineering evaluation and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>0</td>
<td>800,000</td>
<td>0</td>
<td>920,000</td>
<td>2, 3, and 6</td>
</tr>
<tr>
<td>7. Reconfiguration of Old Jail - Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>920,000</td>
<td>4</td>
</tr>
<tr>
<td>8. Northwest Annex - Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>0</td>
<td>920,000</td>
<td>2 and 3</td>
</tr>
<tr>
<td>9. Whatcom County Buildings Interior Painting</td>
<td>50,000</td>
<td>50,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>100,000</td>
<td>3</td>
</tr>
<tr>
<td>10. Central Plaza Building Engineering &amp; Replacement</td>
<td>10,000</td>
<td>65,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>75,000</td>
<td>3</td>
</tr>
<tr>
<td>11. Courthouse Exit Light Replacement</td>
<td>35,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>35,000</td>
<td>3</td>
</tr>
<tr>
<td>12. Central Plaza Building Exterior Building Envelope Repairs &amp; Maintenance</td>
<td>10,000</td>
<td>40,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>50,000</td>
<td>3</td>
</tr>
</tbody>
</table>

**Total** | 2,805,000 | 3,705,000 | 1,240,000 | 920,000 | 1,600,000 | 0      | 10,270,000 |

**Funding Source Key:** 1. Grants; 2. EDI funds; 3. REET; 4. Jail Fund; 5 Bonds; 6. Behavioral Health Fund; 7 General Fund

Note: Highlighted areas indicate proposed changes.
<table>
<thead>
<tr>
<th>Project Name</th>
<th>2013</th>
<th>2014</th>
<th>2016</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
<th>Total Cost</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1—Civic Center Annex—Repair &amp; retrofit, HVAC, engineering, lighting, and exterior repair</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,000,000</td>
<td>1, 2, 3, and 5</td>
</tr>
<tr>
<td>2—Upgrade jail and juvenile controls and improve exiting</td>
<td>1,400,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2,400,000</td>
<td>1, 3, 4, and 5</td>
</tr>
<tr>
<td>3—Courthouse—Exterior engineering—evaluation and repairs</td>
<td>0</td>
<td>180,000</td>
<td>1,000,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1,180,000</td>
<td>1, 3</td>
</tr>
<tr>
<td>4—Courthouse—window-replacement</td>
<td>0</td>
<td>250,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>250,000</td>
<td>1, 3</td>
</tr>
<tr>
<td>5—Courthouse—Full suite-courtroom and judicial hearing-room</td>
<td>0</td>
<td>200,000</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>200,000</td>
<td>1, 3</td>
</tr>
<tr>
<td>6—Reconfiguration-of Triage—Engineering—evaluation and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>0</td>
<td>800,000</td>
<td>0</td>
<td>920,000</td>
<td>2, 3, 4, and 6</td>
</tr>
<tr>
<td>7—Reconfiguration of Old Jail—Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>0</td>
<td>920,000</td>
<td>4</td>
</tr>
<tr>
<td>8—Northwest Annex—Engineering and remodel</td>
<td>0</td>
<td>0</td>
<td>120,000</td>
<td>800,000</td>
<td>0</td>
<td>0</td>
<td>920,000</td>
<td>2, 3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>2,400,000</td>
<td>2,630,000</td>
<td>1,240,000</td>
<td>920,000</td>
<td>1,600,000</td>
<td>0</td>
<td>8,790,000</td>
<td></td>
</tr>
</tbody>
</table>

**Funding Source Key:** 1. Grants; 2. EDI funds; 3. REET; 4. Jail Fund; 5 Bonds; 6. Behavioral Health Fund
**Chapter 12 – Costs by Project Category**

**CAPITAL COSTS BY PROJECT CATEGORY, 2013-2018**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Parks</td>
<td>100,000</td>
<td>400,000</td>
<td>730,000</td>
<td>430,000</td>
<td>530,000</td>
<td>280,000</td>
<td>2,470,000</td>
<td>1.76%</td>
</tr>
<tr>
<td>Trails</td>
<td>1,500,000</td>
<td>155,000</td>
<td>1,140,000</td>
<td>1,125,000</td>
<td>1,125,000</td>
<td>1,175,000</td>
<td>6,220,000</td>
<td>4.43%</td>
</tr>
<tr>
<td>Sheriff’s Office New Jail</td>
<td>10,000,000</td>
<td>10,000,000</td>
<td>18,000,000</td>
<td>18,000,000</td>
<td>4,000,000</td>
<td>0</td>
<td>60,000,000</td>
<td>42.70%</td>
</tr>
<tr>
<td>Transportation</td>
<td>18,906,000</td>
<td>11,205,000</td>
<td>4,470,000</td>
<td>4,552,000</td>
<td>4,552,000</td>
<td>4,551,000</td>
<td>48,236,000</td>
<td>34.33%</td>
</tr>
<tr>
<td>Stormwater</td>
<td>1,400,000</td>
<td>1,525,000</td>
<td>650,000</td>
<td>920,000</td>
<td>600,000</td>
<td>1,200,000</td>
<td>6,295,000</td>
<td>4.48%</td>
</tr>
<tr>
<td>Flood Protection</td>
<td>3,226,000</td>
<td>1,650,000</td>
<td>2,075,000</td>
<td>25,000</td>
<td>25,000</td>
<td>25,000</td>
<td>7,026,000</td>
<td>5.00%</td>
</tr>
<tr>
<td>Existing Buildings</td>
<td>2,805,000</td>
<td>3,705,000</td>
<td>1,240,000</td>
<td>920,000</td>
<td>1,600,000</td>
<td>0</td>
<td>10,270,000</td>
<td>7.31%</td>
</tr>
</tbody>
</table>

**Total Cost** 37,937,000 28,640,000 28,305,000 25,972,000 12,432,000 7,231,000 140,517,000 100.00%

Note: Highlighted areas indicate proposed changes.
WHATCOM COUNTY
PLANNING COMMISSION

Amendments to the Six-Year Capital Improvement Program (CIP)

FINDINGS OF FACT AND REASONS FOR ACTION

1. The proposal is to amend the Whatcom County Comprehensive Plan as follows:

   a. Adopting amendments to Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018 as shown in the attached Exhibit A: Amending Chapter 11 by adding four new capital improvement projects, and identifying for each a funding source, projected costs, and timeline for expenditure of allotted funds; and modifying funding source, projected costs, and spending schedule for two existing CIP County Courthouse projects previously adopted in 2012 under Ord. 2012-049; and finally, amending Chapter 12 to reflect changes to costs that will occur as a result of the above described amendments to Chapter 11.


2. Pursuant to RCW 36.70A.106, on April 22, 2013, a “60 Day Notice of Intent to Adopt Amendment” was submitted to the Washington State Department of Commerce in regards to the subject amendments.

3. On April 23, 2013, Whatcom County Planning & Development Services Department received confirmation from the Washington State Department of Commerce indicating that Commerce had received the County’s “60 Day Notice of Intent to Adopt Amendment”, and that Material ID # 19082 had been assigned to the materials received.

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      i. The anticipated effect upon the rate or distribution of population growth, employment growth, development, and conversion of land as envisioned in the comprehensive plan.
ii. The anticipated effect on the ability of the county and/or other service providers, such as cities, schools, water and/or sewer purveyors, fire districts, and others as applicable, to provide adequate services and public facilities including transportation facilities.

iii. Anticipated impact upon designated agricultural, forest and mineral resource lands.

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**Growth Management Act**

9. The Growth Management Act (GMA) establishes planning goals in RCW 36.70A.020 to guide adoption of comprehensive plan amendments.

10. GMA planning goal # 12 is to “Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards” (RCW 36.70A.020(12)).

11. The subject amendments include amending the Six-Year CIP for Whatcom County Facilities for the 2013-2018 planning period. Amendments to the CIP are one step in a process of planning regional facilities provided by the County to serve the people of Whatcom County.

12. The Growth Management Act, RCW 36.70A.070(3), requires that a comprehensive plan must include a capital facilities plan element consisting of:

   a. An inventory of existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities.

   b. A forecast of the future needs for such capital facilities.

   c. The proposed locations and capacities of expanded or new capital facilities.

   d. At least a six-year plan that will finance such capital facilities within projected funding capacities and clearly identifies sources of public money for such purposes.
e. A requirement to reassess the land use element if probable funding falls short of meeting existing needs and to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent.

13. The Six-Year CIP (2013-2018) for Whatcom County Facilities contains an inventory of existing County owned or operated facilities, a forecast of future needs based upon the level of service standards adopted in the Whatcom County Comprehensive Plan and other factors, proposed expanded or new County capital facilities, costs and funding sources.

14. The purpose of the proposed amendments is to modify the Six-Year CIP, Chapters 11 & 12 (Exhibit A) to add four new improvement projects, their projected costs, sources of funding, and time line for expenditure of the allotted funds; and also to modify the funding source, projected costs, and projected date for expenditure of funds previously set for two existing County Courthouse improvement projects that are identified in Chapter 11 of the CIP as it was adopted in 2012.

15. The four new improvement projects that are proposed have been determined by Whatcom County Facilities Management as necessary to enhance performance and extend building longevity, and to increase life/safety in facilities used for official County business.

16. After their original adoption into the CIP, the two existing courthouse improvement projects that are proposed to be amended were reassessed and it was determined by Facilities Management that it would be necessary to make changes to projected costs, and funding sources, and changes to project start-up dates, in order to meet County goals for completion of these projects.

17. The proposed amendments are in conformance with the Growth Management Act in that the act requires that the County adopt a six-year financing plan to fund proposed capital facility improvement projects; the proposed improvement projects have been identified as necessary, and the CIP must be amended to include these projects prior to any monies spent.

**County-Wide Planning Policies**

18. In conformance with County Wide Planning Policies (A) 2-4 regarding public participation, the County has taken steps to ensure that the Whatcom County Public Participation Plan (2012) is followed with respect to providing information to the public, and other interested parties, about the details and scope of the proposed amendments under consideration.

19. PDS staff maintained a complete file on the amendments being considered, including background research, preliminary analysis, proposed draft text,
and various agency correspondence. Public notice was published in the Bellingham Herald to inform the public of the scheduled upcoming public hearing to be held by the Planning Commission; and information about the upcoming hearing and a report containing staff analysis and recommendations were posted to the County website.

20. On May 9, 2013, an email describing the proposed amendments was sent to 200 interested citizens who have previously requested to be kept up to date on proposed amendments and other County projects. Staff continues to be available to respond to inquiries from interested parties about the proposal. Any input received from interested parties will be considered and may form the basis of recommendations that are made to County decision-makers.

21. County-Wide Planning Policy K – Siting of Public Facilities

Policy K-1 states: “As part of the comprehensive planning process, the county and the cities shall identify appropriate land for public facilities which meets the needs of the community, such as schools, recreation, transportation and utility corridors, human service facilities, and airport and other port facilities . . .”

The proposed modifications to existing adopted CIP projects and the four new projects, if approved, will improve the structural integrity of county facilities, add to their longevity, and provide for an increase in overall life/safety in these facilities.

The proposed amendments to the CIP add four new projects to improve existing buildings, identify dollar amounts and funding sources for proposed improvement projects, and also modify existing sources of funding and dollar amounts set for expenditure on two existing improvement projects previously adopted in the CIP in 2012 (Ord. 2012-049). As proposed, the new projects and modified projects will help fulfill County-Wide Planning Policies that call for facility planning that “meets the needs of the community”.

Interlocal Agreements

22. Discussion: Interlocal agreements between Whatcom County and the cities emphasize the need for cooperation and identify the importance of consulting with any city as appropriate when the County plans new projects within the city’s urban growth area.

23. The purpose of the proposed amendments, in part, is to improve County owned/operated facilities. County facilities may be physically located throughout the county, such as the County Courthouse and the Central Plaza Building located within the City of Bellingham. Whatcom County facilities serve the interests of a widespread range of citizenry regardless of
where they may reside. To ensure adequate notice of the County’s intent, and to ensure cooperation with all involved or affected parties, all of the cities were each sent an email memo describing County’s intent to amend its Six-Year Capital Improvement Program, along with an invitation to comment on proposal.

24. The Planning Commission finds that the proposed Six-Year Capital Improvement Program is generally consistent with the GMA, County Wide Planning Policies, and adopted Interlocal agreements with the cities.

Further Studies/Changed Conditions

25. The Six-Year CIP (2013-2018) was most recently revised and adopted, in November 2012, since that time, Whatcom County Administrative Services Department; Facilities Management Division has identified four additional projects that are designed to improve County facilities.

26. The four additional projects proposed, include: 1) Implementation of a interior painting schedule for all Whatcom County Facilities; 2) Improvements to the Central Plaza Building (Public Defenders Building) that include Heating, Ventilation, and Air Conditioning (HVAC) system upgrades that proactively address life/safety concerns in regards to air quality; 3) Improvements to the Central Plaza Building exterior, including crack repair and re-painting to remedy typical defects that often occur with Dryvit Stucco EIFS (Exterior Insulation Finish System); and 4) Replacement of old and failing outdated (expired, end of life) Exit-Lights throughout the County Courthouse, another improvement project that addresses life/safety concerns.

27. Proposed amendments to the two existing courthouse improvement projects are aimed at modifying the source of funding; increasing total costs projected, and adjusts the time frame for expenditure of dedicated funds. The start date for the courthouse building envelope project (Item No. 3), was originally planned in 2014, but Facilities Management reassessed timelines for completion of this project and it was determined that the evaluation and engineering work on this project would need to start sooner (2013) with the bulk of the actual repair and costs still scheduled for 2015.

28. Because the completion of a new courtroom and new judicial hearing room (Item No. 5) needed to coincide with the arrival of a new superior court judge (as early as January 2015), this meant that design and engineering tasks associated with this project originally planned for 2014 would have to be moved up 2013, with the bulk of the actual improvements made in 2014.

29. In part, the purpose of these amendments is to ensure that the source of
funding for these capital improvement projects, proposed to be utilized in 2013 & 2014, is identified in the Six-Year Capital Facilities Plan. Real Estate Excise Tax (REET) monies are proposed in part to fund these projects, and in accordance with state law, REET monies may only be utilized for project funding when identified in the County Six-Year CIP [RCW 82.46.010 & RCW 82.46.035].

30. Pursuant to the Growth Management Act (GMA), amendments to the County’s Comprehensive Plan may be considered no more frequently than once per year (with certain exceptions); one such exception is when a Capital Facilities Plan is amended concurrently with the County budget [RCW 36.70A.130(2)(a)(iv)]. It is understood that Whatcom County Administrative Services Department, Finance Division will also be amending the County’s 2013-2014 biennial budget concurrently with an amendment to the CIP.

31. The Planning Commission finds that information provided by Facilities Management demonstrate that changed conditions exist, which justify an amendment to the Comprehensive Plan.

Public Interest

32. The goal of capital facility planning is to plan for parks, stormwater facilities, government buildings, correction facilities, transportation improvements and other facilities to serve the people of Whatcom County.

33. The proposed amendments to the CIP will modify existing projects that are designed to improve County Facilities, and add additional projects that are designed to maintain or enhance County facilities over the six-year period from 2013 to 2018.

34. As proposed the additional improvement projects, once completed, should improve facility performance and longevity, and address life/safety concerns in existing facilities.

35. The proposed improvement projects are planned in a way that is responsive to anticipated population growth and other factors, and therefore it is expected that the proposed amendments will complement the County’s growth and development plans, and serve the public interest.

Spot Zoning

36. The subject proposal does not involve rezoning real property.

IV. CONCLUSIONS

1. The proposed amendments conform to applicable requirements of the
Growth Management Act, are internally consistent with the Whatcom County Comprehensive Plan and its adopted County-Wide Planning Policies, and adopted Interlocal Agreements with the cities.

2. The proposed amendments satisfy the approval criteria of WCC 2.160.080.

V. RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends approval of:

1. Exhibit A, which contains proposed draft text intended to amend Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018, (Appendix F of the Whatcom County Comprehensive Plan).

2. The Planning Commission also recommends repealing existing Chapters 11 & 12 previously adopted under Whatcom County Ordinance (Ord. 2012-049) as shown in Exhibit A.

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair

Sam Ryan, Secretary

June 6, 2013

Commissioners present at the May 23, 2013 meeting when the vote was taken: David Onkels; Jeff Rainey; Ken Bell; Ben Elenbaas; Gary Honcoop; Mary Beth Teigrob; Michelle Luke; Rod Erickson; Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendments.
Public Hearing


Erin Osborn presented the staff report.

The proposed amendments are required by the Growth Management Act (GMA) which requires counties to adopt a capital facilities plan element that contains an inventory of county facilities, a forecast of future needs and a six year financing plan. It is updated every two years. The proposed amendments address four new projects and modify two existing projects. They will be funded with real estate excise tax monies.

The hearing was opened to the public.

Greg Brown, Whatcom County: Stated money continues to be added to these projects because the previous repairs didn’t get done properly the first time. This needs to be looked at closely. Some of the items should have already been in the budget, not added to it.

Max Perry, Whatcom County: Recommended the County look at extending park trails with existing money instead of adding more land to make trails on.

The hearing was closed to the public.

Work Session

Staff stated finding #8 needs to be removed due to an error in the Bellingham Herald publication. Commissioner Teigrob so moved. Commissioner Bell seconded. The motion carried.

Commissioner Vekved made a motion to correct the second paragraph on page 2 of the staff report to read: Explanation of Change: Proposed change in dollar amount and funding source for this item includes a change from “zero dollars” set for expenditure in 2013 to a scheduled $100,000 in 2013, and a change from $180,000 set for expenditure in 2014 to a scheduled $300,000 in 2014 (a net increase of $120,000 to $220,000 for the two year period). Changes to source of funding for this item: “Grants and REET” funding, is proposed to be replaced with: “Grants, EDI Funds, and REET”. The Commission agreed to the correction. Commissioner Honcoop seconded. The motion carried.
Commissioner Onkels moved to recommend approval of the findings and conclusions; Exhibit A, which contains proposed draft text intended to amend Chapters 11 & 12 of the Six-Year Capital Improvement Program (CIP) for Whatcom County Facilities 2013-2018, (Appendix F of the Whatcom County Comprehensive Plan); and the repeal of existing Chapters 11 & 12 previously adopted under Whatcom County Ordinance (Ord. 2012-049) as shown in Exhibit A.

Commissioner Bell seconded.

Roll Call Vote: Ayes – Bell, Elenbaas, Erickson, Honcoop, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – 0. The motion carried.
### WHATCOM COUNTY COUNCIL AGENDA BILL

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<td>Jack Louws</td>
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**TITLE OF DOCUMENT:**
Ordinance amending WCC 10.34, Ferry Rates

**ATTACHMENTS:**
Ordinance, Exhibit A

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<th>Should Clerk schedule a hearing?</th>
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**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.)

This ordinance amends Whatcom County Code 10.34 paragraphs K and L. Both paragraphs concern the Needs Based ticket program. This ordinance amends the income limits from a set amount to the Dept. of Housing and Urban Development (HUD) Very Low Income Levels which are modified each year. It also changes the Needs Based ticket sales location from the Whatcom County Treasurer’s Office to the Whatcom County Public Works Administration Building. These changes will occur within sixty (60) calendar days from the adoption date of the ordinance.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
7/09/2013: Introduced

**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.

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MEMORANDUM

TO:     The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council
FROM:  Frank M. Abart, Director
RE:     An Ordinance to Amend WCC 10.34, Ferry Rates
DATE:   June 26, 2013

Requested Action:
Consideration of the attached ordinance that amends Whatcom County Code 10.34 paragraphs K and L. Both paragraphs concern the Needs Based ticket program. This ordinance amends the income limits from a set amount to the Dept. of Housing and Urban Development (HUD) Very Low Income Levels which are modified each year. It also changes the Needs Based ticket sales location from the Whatcom County Treasurer’s Office to the Whatcom County Public Works Administration Building.

These changes will occur within sixty (60) calendar days from the adoption date of the ordinance.

Background and Purpose:
The intended purpose is to amend the income levels from a set amount to the Dept. of Housing and Urban Development (HUD) Very Low Income Levels which are modified each year.

For example, the following is the HUD Very-Low Income Limits for 2013:

$46,100 or less for a family of eight
$43,300 or less for a family of seven
$40,500 or less for a family of six
$37,700 or less for a family of five
$34,900 or less for a family of four
$31,450 or less for a family of three
$27,950 or less for a family of two
$24,450 or less for an individual
Other Information:
The Opportunity Council has been selected as the Reviewing Authority for the applications because of their expertise in performing HUD related evaluations. The Citizens’ Task Force for the Lummi Island Ferry recommended using the Opportunity Council to perform the screening in their report (Item number 23). The financial impact will be a charge of $50.00 per application submitted to the Opportunity Council regardless of whether the application is approved or not. The amount of applications processed each year will be dependent upon the constraints of the Ferry Operations budget for each year. The budget for this program is currently $2051.00 for 2013 and $2038.00 for 2014.

However, it should be noted that there may be more applications submitted than the budgeted amount for this program. This may cause a need for a mid-year supplemental budget request.

If approved, this Ordinance will also change where the special needs tickets will be sold. Currently the tickets can only be sold at the Whatcom County Treasurer’s Office. However, once this ordinance is adopted, the tickets will only be sold at the Whatcom County Public Works Administration Building in Bellingham.

If you have any questions please call Frank Abart at extension 50678. Thank you.

Enc.
PROPOSED BY: Frank Abart
SPONSORED BY: Public Works
INTRODUCTION DATE: __________

ORDINANCE NO. _________

AMENDING WHATCOM COUNTY CODE CHAPTER 10.34 FERRY RATES

WHEREAS, Chapter 10.34 of the Whatcom County Code addresses administration of the special Needs Based discount for Lummi Island residents; and

WHEREAS, the Public Works Department would like to change the income levels to the Department of Housing and Urban Development (HUD) Very Low Income Levels; and

WHEREAS, the sales location of the Needs Based tickets requires a change from the Whatcom County Treasurer’s Office to the Whatcom County Public Works Administration Office; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 10.34 is hereby amended as shown in Exhibit A to this ordinance, and

BE IT FURTHER ORDAINED these changes will occur within sixty (60) calendar days from the adopted date of the ordinance.

ADOPTED this ___ day of __________, 20__.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: ____________________

Page 1
EXHIBIT A

Chapter 10.34 FERRY RATES

Sections:
10.34.005 Definitions.
10.34.010 Effective date for ferry user fees.
10.34.020 Interpretation of rate schedule.
10.34.030 Use of ferry user fee revenues.

10.34.005 Definitions.

A. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

B. "Operating cost" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

C. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

E. "Ferry user fees" means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.


10.34.010 Effective date for ferry user fees.
Ferry user fees are set forth in the Whatcom County Unified Fee Schedule and become

10.34.020 Interpretation of rate schedule.

The following provisions should be observed in application of the ferry rate schedule:

A. Trailers shall include, but not be limited to, ball hitches, military hitches, fifth wheel in bed of pickup, dump trailers, recreation trailers and mobile homes.

B. Special trips are a surcharge in addition to the applicable fare.

C. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

D. Trucks and tow vehicles with trailers shall be charged a rate based on length and weight. Heavy machinery and motor homes shall be charged at the corresponding vehicle rate.

E. All trucks shall be charged regular round-trip rates based on legal license capacity.

F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

H. Children 12 to under 19 (nineteen) years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and $10.00 per trip will be credited toward the fare box recovery rate each year.

J. Enrolled members of the Lummi Indian Tribe who are issued appropriate identification cards by the tribe, or current fishing cards, licenses, or Lummi Indian Business Council ID cards and who have legitimate tribal business upon Lummi Island, as indicated by the Lummi Indian Tribe, shall have free foot passage upon and across the ferry operated by Whatcom County between Gooseberry Point and Lummi Island.

K. A special needs-based discount is provided for Lummi Island residents who meet the very low income levels listed below set annually by the Dept. of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County Public Work’s Ferry web page. The Reviewing Authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of
approval, will depend on the constraints of the Ferry Operations budget for each year. These special needs based tickets will only be sold at the Whatcom County treasurer's office Public Works Administration Building in Bellingham and will require proof of income and family size. a valid voucher issued from the Reviewing Authority and valid ID. Eligibility will be reviewed at least annually by the Reviewing Authority. Forms and procedures will be developed by the Whatcom County treasurer's office. Whatcom County Public Works and the Reviewing Authority. These changes will take place within sixty (60) calendar days of the adopted date of the ordinance.

1. Family of four or more with less than $40,000 total annual income;

2. Family of three with less than $30,000 total annual income;

3. Family of two with less than $20,000 total annual income;

4. Individual with less than $10,000 total annual income.

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island residents who currently hold property tax exemptions or deferral as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18020, and as these may be hereafter amended. Eligibility for a special "senior/disabled" discount is also available to all Lummi Island residents that also qualify for medical assistance within the Medicaid Program. These special needs based tickets will only be sold at the Whatcom County Public Works Administration Building in Bellingham and will require valid ID. These changes will take place within sixty (60) calendar days of the adopted date of the ordinance.

M. Intentionally left blank.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry.

10.34.030 Use of ferry user fee revenues.

Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and evaluated continuously from that time forward. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund and applied only to future operating costs.

In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase unless there is adequate excess ferry user fee revenue remaining in the ferry system fund collected during prior years.

Prior legislation: Ord. 89-103
EXHIBIT A

Chapter 10.34 FERRY RATES

Sections:

10.34.005 Definitions.

10.34.010 Effective date for ferry user fees.

10.34.020 Interpretation of rate schedule.

10.34.030 Use of ferry user fee revenues.

10.34.005 Definitions.

A. "Ferry system" means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

B. "Operating cost" means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

C. "Capital cost" means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

E. "Ferry user fees" means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.


10.34.010 Effective date for ferry user fees.
Ferry user fees are set forth in the Whatcom County Unified Fee Schedule and become

10.34.020 Interpretation of rate schedule.

The following provisions should be observed in application of the ferry rate schedule:

A. Trailers shall include, but not be limited to, ball hitches, military hitches, fifth wheel in bed of pickup, dump trailers, recreation trailers and mobile homes.

B. Special trips are a surcharge in addition to the applicable fare.

C. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

D. Trucks and tow vehicles with trailers shall be charged a rate based on length and weight. Heavy machinery and motor homes shall be charged at the corresponding vehicle rate.

E. All trucks shall be charged regular round-trip rates based on legal license capacity.

F. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

H. Children 12 to under 19 (nineteen) years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and $10.00 per trip will be credited toward the fare box recovery rate each year.

J. Enrolled members of the Lummi Indian Tribe who are issued appropriate identification cards by the tribe, or current fishing cards, licenses, or Lummi Indian Business Council ID cards and who have legitimate tribal business upon Lummi Island, as indicated by the Lummi Indian Tribe, shall have free foot passage upon and across the ferry operated by Whatcom County between Gooseberry Point and Lummi Island.

K. A special Needs Based discount is provided for Lummi Island residents who meet the very low income levels set annually by the Dept. of Housing and Urban Development (HUD). The current year's levels will be posted on the Whatcom County Public Work's Ferry web page. The Reviewing Authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will depend on the
constraints of the Ferry Operations budget for each year. These special needs based
tickets will only be sold at the Whatcom County Public Works Administration Building in
Bellingham and will require a valid voucher issued from the Reviewing Authority and valid
ID. Eligibility will be reviewed at least annually by the Reviewing Authority. Forms and
procedures will be developed by the Whatcom County Public Works and the Reviewing
Authority. These changes will take place within sixty (60) calendar days of the adopted
date of the ordinance.

L. Eligibility for a special "senior/disabled" discount is available to all Lummi Island
residents who currently hold property tax exemptions or deferral as defined under RCW
84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18020, and as these may be
hereafter amended. These special needs based tickets will only be sold at the Whatcom
County Public Works Administration Building in Bellingham and will require valid ID. These
changes will take place within sixty (60) calendar days of the adopted date of the
ordinance.

M. Intentionally left blank.

N. All children under the age of 12 years when traveling on the Whatcom County ferry
must be accompanied by an adult. An exception to this policy will be made only if the adult
parent or guardian signs a waiver exempting Whatcom County from all liabilities for any
and all injuries, loss of life, etc., while the child is traveling on the ferry.

10.34.030 Use of ferry user fee revenues.

Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and
evaluated continuously from that time forward. An annual review of ferry system services,
actual and projected operating costs, and actual and projected revenue from ferry user fees
shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess
revenue shall be retained in the ferry system fund and applied only to future operating
costs.

In any given year the actual fare box recovery rate is below 55 percent, the difference
shall be recovered in a future ferry user fee increase unless there is adequate excess ferry
user fee revenue remaining in the ferry system fund collected during prior years.

Beginning January 1, 2007, any interest income or income from state motor
vehicle fuel tax for ferry operation will be deducted from the actual operating
costs before the actual 55 percent fare box recovery rate is calculated. (Ord.
2001-064).

Prior legislation: Ord. 89-103
TITLE OF DOCUMENT: Zoning amendment to allow Packinghouses in the Agriculture Zoning District

ATTACHMENTS:
1) Proposed Ordinance
2) Exhibit A – Proposed Code Amendments
3) Background Information #1: Map – Critical Aquifer Recharge Areas and Designated Agricultural Lands
4) Background Information #2: Comprehensive Plan Policy 2HH-3 regarding designation of new LAMIRDS
5) Background Information #3: Health Department Comment
6) Background Information #4: PowerPoint presentation from May 21st Planning and Development Committee

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) 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.)

To allow packinghouses of up to 10,000 square feet as an accessory use, or greater than 10,000 but less than 30,000 square feet as a conditional use. Review criteria include limits on livestock source, limitations on holding pens, adequate services by necessary facilities, waste management requirements, appropriate vehicular approaches, limits on, noxious emissions, requires avoidance of prime soils to the extent feasible, and prohibition within Critical Aquifer Recharge Areas of High susceptibility, among other criteria

COMMITTEE ACTION:
5/21/2013: Exhibit A amended and recommended for Introduction at the next meeting (Joshua Fleischmann to provide an amended ordinance
6/04/2013: Held in SCOTW
6/18/2013: Amended. Introduce amended ordinance in two weeks.

COUNCIL ACTION:
6/04/2013: Will be introduced at a later date
6/18/2013: Will be introduced July 9, 2013
7/09/2013: Introduced

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.
ORDINANCE NO. __________

ZONING AMENDMENT TO ALLOW AGRICULTURAL PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT

WHEREAS, an application has been submitted to amend the Agriculture (AG) zoning district to allow the small scale slaughter of local livestock; and

WHEREAS, the proposed amendment has been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, In accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed zoning text amendment; and

WHEREAS, notice of the Whatcom County Planning Commission hearing on the proposed amendment was published in the Bellingham Herald; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission held 3 work sessions on the proposed amendment; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council has reviewed the Planning Commission recommendation; and

WHEREAS, the Whatcom County Council held 3 public hearing on the proposed amendment and considered all testimony; and

WHEREAS, the Whatcom County Council held 7 work sessions in the Planning and Development Committee; and

WHEREAS, The Whatcom County Council held 2 work session in the Special Committee of the Whole; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. The proposal is to amend the Agriculture (AG) District portion of the Zoning Code (WCC 20.40), to allow for packinghouses.

2. The proposal has been posted to the County website.

3. Notice of the subject amendment was submitted to the Washington State
Department of Commerce on June 5, 2012.

4. Notice of the Planning Commission work session for the subject amendment was posted on the County’s website in May 2012.

5. In order to approve the zoning amendment, the County must find that it is consistent with the Growth Management Act. Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

6. The Growth Management Act includes a planning goal to “Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities” (RCW 36.70A.020(5)).

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Presently, new packinghouses are prohibited within the agriculture zoning district. Staff recognizes the benefit to the agricultural industry this amendment would provide by allowing greater opportunities for farmers to get their product to the end user. The Growth Management Act allows for jurisdictions to implement innovative zoning techniques, which should be designed to conserve agricultural lands and encourage the agricultural economy. This proposed amendment would support planning goal RCW 36.70A.020(5) Economic Development.

7. The Growth Management Act also includes a planning goal to “Maintain and enhance natural resource-based industries, including productive timber, agricultural, and fisheries industries. Encourage the conservation of productive forest lands and productive agricultural lands, and discourage incompatible uses” (RCW 36.70A.020(8)).

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Staff recognizes the benefit to the agricultural industry this amendment would provide by allowing greater opportunities for farmers to get their product to the end user. This proposed amendment would support planning goal RCW 36.70A.020(8) Natural Resource Industries.

8. Consistent with RCW 36.70A.177, this amendment will allow packinghouses within the agricultural zone that will support the agricultural community by allowing production of value-added agricultural products and will not interfere with the overall agricultural use and character of the County’s designated agricultural lands of long-term commercial significance.

This proposed zoning amendment would allow for new packinghouses within the agriculture zoning district. Presently, Keizer Meats of Lynden, which operates the only USDA approved facility north of King County Seattle that is open to the general public, has received conditional approval to operate a facility at the location of their approved meat cutting and packing facility on Bob Hall Rd. Approval of this proposed amendment would allow other citizens within the agriculture zoning district to provide slaughtering services to Whatcom County farmers and allow greater opportunities for farmers to generate value-added products and get their product to the end user.

10. Policy 8B-2: Assist Whatcom County’s agricultural industry in the pursuit of its long-term economic potential. This should include the development of strategies and policies necessary to reach this potential, in terms of both production and diversity.

This proposed zoning amendment would allow for new uses not presently allowed in the agriculture zoning district. Allowing this use may increase production and diversity of livestock by providing greater opportunities for livestock owners to get their product to the end user.

11. Policy 8B-4: Support methods and strategies to market Whatcom County agriculture in ways which ensure that agricultural activities (such as dairying) and entities (such as processors) will remain here in the long term.

Allowing new packinghouses within the agriculture zoning district would provide for additional marketing of Whatcom County livestock, as there is presently only one permitted USDA approved facility within any Whatcom County jurisdiction that is open to the public.

12. County-Wide Planning Policy I-5: The county and the cities should include an economic development element in their Comprehensive Plans. Economic development elements should be consistent with the CEDS. Economic development shall be coordinated with environmental concerns to protect the quality of life. Planning efforts should address economic sustainability. As part of the comprehensive planning process and through implementation of the comprehensive plan, the County shall develop and adopt goals, policies and regulations that protect resource land industries and support and encourage resource-based industries.

Approval of this proposed amendment would allow citizens within the agriculture zoning district to provide slaughtering services to Whatcom County farmers and allow greater opportunities for farmers to get their product to the end user. By approving the proposed amendment, comprehensive plan goals and policies and their related development regulations that support and encourage resource-based industries would be implemented.

13. County-Wide Planning Policy I-9: The County and the cities recognize the
need for the protection and utilization of natural resources and resource
lands including agricultural, mineral, forestry and fishing. As part of a broad
based economy, productive timber, agriculture and fisheries industries should
be supported in a sustainable manner.

Approval of this proposed amendment would allow citizens within the
agriculture zoning district to provide slaughtering services to Whatcom
County farmers and allow greater opportunities for farmers to get their
product to the end user. Approval of this proposal would allow for an
increase to the economic base for agricultural products related to livestock.

14. Packinghouses within the Agriculture zone allow for a local, sustainable,
humanely raised food supply for the citizens of Whatcom County.

15. Limiting holding pens to that necessary to accommodate animals intended for
immediate processing would prevent packinghouse holding pens from
becoming feedlots, while allowing each facility the flexibility to adjust their
business accordingly.

16. The proposed amendment has not changed substantially from the initial staff
proposal that was reviewed through the State Environmental Policy Act
(SEPA). The previously issued SEPA Threshold Determination of
Determination of Nonsignificance (DNS) is still applicable.

17. The Rural Industrial Manufacturing (RIM) zone is the only zone presently in
Whatcom County that provides a permitting pathway to allow for
slaughtering facilities packinghouses and slaughterhouses. Applicability of
land within the RIM zone to a new agricultural slaughtering facility is limited
to the I-5 Rural Business RIM zone.

18. According to the 2007 USDA Census of Agriculture, Whatcom County has
95,500 cattle and calves.

19. Keizer Meats, the only USDA approved slaughtering facility in Whatcom
County, is limited to slaughtering 2,000 animals per year through their
Conditional Use Permit.

20. Both nationwide and locally, the percentage of livestock operations selling
product directly to consumers or retailers is much smaller than that of other
agricultural products (US Department of Agriculture. Slaughter and
Processing Options and Issues for Locally Sourced Meat. USDA Economic

21. Limited slaughter and processing capacity is often cited as a key barrier to
marketing of meat and poultry locally (US Department of Agriculture.
Slaughter and Processing Options and Issues for Locally Sourced Meat. USDA

22. The number of slaughter plants has decreased in recent years, both
nationwide and locally (US Department of Agriculture. Slaughter and
Processing Options and Issues for Locally Sourced Meat. USDA Economic
23. Nationwide 87 percent of federally inspected facilities combine to process just
over 1 percent of cattle slaughtered per year (US Department of Agriculture,
Slaughter and Processing Options and Issues for Locally Sourced Meat. USDA

24. Lack of nearby slaughter facilities can create logistical impediments to animal
slaughter, particularly in being able to transport animals/meat to and from
the slaughter plant in a financially practical way (US Department of
Agriculture. Slaughter and Processing Options and Issues for Locally Sourced

25. Nationwide Given the mismatch between smaller producers and larger
plants, many individual producers marketing their meat via niche marketing
arrangements must rely on smaller facilities, wherever they are located.
Small producers may prefer to use a smaller slaughter and processing facility
because a smaller plant is likely to be more flexible in satisfying the
producer’s individual processing requests (US Department of Agriculture.
Slaughter and Processing Options and Issues for Locally Sourced Meat. USDA

26. Nationwide Sales of food sold via direct-to-consumer marketing have more
than doubled over the last decade (USDA/NASS, 2007 Census of Agriculture).
However, direct-to-consumer and intermediated sales of livestock products
have not grown as rapidly as other food categories, despite apparent
demand. Local producers continue to perceive a lack of local slaughter
capacity as a hindrance in trying to meet growing demand (US Department
of Agriculture. Slaughter and Processing Options and Issues for Locally

27. Currently, the vast majority of livestock and poultry slaughter in the United
States is done in a relatively small number of very large facilities (US
Department of Agriculture. Slaughter and Processing Options and Issues for

28. New methods for animal slaughter and processing geared toward local
markets, for example, mobile slaughter units (MSUs), can help meet some of
the need for increased slaughter capacity in localized areas and enable the
growth of small livestock producers marketing products to consumers in their
region or community (US Department of Agriculture. Slaughter and
Processing Options and Issues for Locally Sourced Meat. USDA Economic

29. As part of the review process for the proposed amendments, Planning and
Development Services has read numerous background documents including,
but not limited to: USDA Layout Guide for Small Meat Plants; University of
Wisconsin Cooperative Extension; Pollution Prevention for Small
Slaughterhouse and Meat Packing Operations handout; USDA Slaughter and
Processing Options and Issues for Locally Sourced Meat; Siskiyou Slaughter
Facility Preliminary Feasibility Study & Action Plan; EPA Technical


30. Roughly 56% of agriculturally zoned land is within a Critical Aquifer Recharge Area (CARA) of high susceptibility, as identified by the Critical Areas Ordinance map.

**CONCLUSIONS**

1. The proposed amendments are consistent with the Whatcom County Comprehensive Plan.
2. The subject amendment serves the public interest by supporting the local agricultural industry.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Zoning Code is hereby amended as shown in Exhibit A.

BE IT FURTHER ORDAINED that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

ADOPTED this _____ day of _________, 20____.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved  ( ) Denied

Date Signed: ____________________
EXHIBIT A

Chapter 20.40 AGRICULTURE (AG) DISTRICT
20.40.100 Accessory Uses

.114 Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

1. The total allowable building area is no larger than 10,000 square feet.
2. The facility processes at least 75 percent agricultural goods produced in Whatcom or Skagit County and that originate from uses permitted in WCC 20.40.051.
3. Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing.
4. For purposes of public notice, the applicant shall submit stamped envelopes with typed addresses for each property owner within 1,000 feet of the external boundaries of the subject property as shown by the records of the county assessor.
5. The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.
6. The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06.
7. An approved state waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.
8. The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.
9. The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:
   a. Are sized to be as small as feasible; and
   b. Located to maximize the agricultural use of the remaining area; and
   c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(10) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

(11) The packinghouse is not located in a Critical Aquifer Recharge Area of a High Susceptibility, as identified by the Critical Areas Ordinance map.

20.40.150 Conditional Uses

.164 Packinghouses, which shall be located, designed, and operated so as to not interfere with the overall agricultural character of the area, provided the following criteria are met:

(1) The total allowable building area is larger than 10,000 square feet and no larger than 30,000 square feet.

(2) The facility processes at least 75 percent agricultural goods produced in Whatcom or Skagit County and that originate from permitted uses in WCC 20.40.051.

(3) Holding pens associated with packinghouses shall be limited to that necessary to accommodate animals intended for immediate processing.

(4) The facility will be serviced adequately by necessary facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and wastewater treatment.

(5) The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06

(6) An approved state waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.

(7) The facility will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

(8) The building shall avoid prime agricultural soils to the extent feasible. Where the site is predominantly in prime soils and avoidance is not feasible, the applicant shall demonstrate that the buildings:
   a. Are sized to be as small as feasible; and
   b. Located to maximize the agricultural use of the remaining area; and
   c. Achieve the most suitable locations in terms of minimizing roads, impervious surfaces, and allowing for water availability and septic suitability.
(9) The packinghouse, as identified in WCC 20.97.282.1, shall emit no noxious emissions that are detectable, at or beyond the property line for the use concerned, in such a concentration or of such duration as to cause a public nuisance, or threaten health or safety, or to unreasonably infringe upon the use of adjacent property.

(10) The packinghouse is not located in a Critical Aquifer Recharge Area of a High Susceptibility, as identified by the Critical Areas Ordinance map.

Chapter 20.69 Rural Industrial Manufacturing (RIM)
20.69.130 Administrative approval uses
20.69.131 Slaughterhouses. Agricultural slaughtering facilities, if done in compliance with WAC Title 16 (Department of Agriculture) and RCW Title 16 (Animals and Livestock).

Chapter 20.80 Supplementary Requirements
20.80.200 Setback requirements
20.80.255 Agriculture District.
(1) The 50-foot front yard setback requirement for new buildings or additions may be waived if the zoning administrator finds the new building or addition is located along the same building line(s) of existing structures and will result in no additional encroachment, the public interest, safety and health are protected; provided, that for a new building the applicant shall also demonstrate that the proposed location is necessary for the economic viability and the continued operation of the agricultural use.
(2) The minimum separation between new residences not located on the same property and farm uses such as barns, pens, milking sheds, packinghouses, or areas used to contain, house or feed animals or store manure or feed, shall be 300 feet. New farm uses such as barns, pens, milking sheds, or areas used to contain, house or feed animals or store manure or feed, shall be situated at least 150 feet from existing residences not located on the same property. Expansion of existing facilities within the 150-foot buffer, providing such expansion is not closer to a neighbor’s residence, and pastures are excluded from this section’s requirements.
(3) The minimum separation between packinghouses and schools shall be 500 feet.
(4) The minimum separation between packinghouses and adjacent property lines shall be 150 feet.

20.97.282.1 Packinghouse
"Packinghouse" means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products. Rendering and importation of animal by-products is strictly prohibited in
packinghouses. Packinghouses shall not slaughter poultry. Packinghouses exclude temporary, mobile or other on-farm, owner-raised poultry slaughtering operations regulated under WAC 16-170 and/or RCW 69.07 that do not require USDA inspection. Agricultural producers who raise poultry may slaughter up to one thousand (1,000) poultry raised on their own farm annually subject to the special poultry permit requirements of WAC 16-170. Agricultural producers who process between one thousand (1,000) and twenty thousand (20,000) poultry a year on their farm are subject to the food processor license requirements of RCW 69.07.

20.97.310 Poultry
“Poultry” means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

20.97.343 Rendering
“Rendering” means the process or business of producing tallow, grease, and high-protein meat and bone meal from animal by-products.

20.97.343.1 Rendering Plant
“Rendering plant” means a plant that processes animal by-product materials for the production of tallow, grease, and high-protein meat and bone meal.

20.97.423.1 Slaughterhouse
“Slaughterhouse” means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

20.97.424 Slaughtering
“Slaughtering” means the killing and processing of animals for human consumption.
BACKGROUND INFORMATION 1)
BACKGROUND INFORMATION 2)

Policy 2HH-3: Rural Business (Type III LAMIRD) designation criteria

A. Location Criteria. Rural Business may be designated on land that:
   1. Is not currently designated by the Comprehensive Plan as Urban Growth Areas (UGAs) or Resource Lands, and
   2. Consists of a lot or small group of lots that either:
      a. Contain nonresidential uses and is located within a commercial, manufacturing, or industrial zoning district at the time of original county-initiated designation, or
      b. Allow for new development of isolated cottage industries and isolated small scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents.

B. Additional Criteria
   1. A Rural Business designation on a lot or small group of lots containing nonresidential uses shall be separated from other LAMIRD designations, regardless of type, by no less than one-half mile by public road, except where the other LAMIRD is separated by a major physical feature such as a water body, freeway, major road, or other physical feature.
   2. In the event that the listed criteria result in the need to choose one proposed designation over another, preference is given to a proposed use that:
      a. Provides the greatest number of job opportunities for rural residents.
      b. Is located at a controlled public road intersection.
BACKGROUND INFORMATION 3)
From: Jeff Hegedus  
Sent: Thursday, May 23, 2013 2:45 PM  
To: Joshua Fleischmann  
Cc: Mark Personius; John Wolpers  
Subject: RE: Packinghouse waste language

Thank you Josh. As we have discussed, and as I have presented to committee, the Health Department has no legal jurisdictional authority or context to approve or disapprove a ‘waste management plan’ as referenced in the proposed ordinance. The Health Department will not approve or disapprove any such ‘plan’ that may be submitted, and again recommends that this requirement be deleted from the draft ordinance (State Waste Discharge Permit applications already require information regarding solid waste management from operations(WAC 173-216-110(c)). As we also discussed, and presented in committee, the Health Department WILL diligently enforce the requirements of WAC 173-350, Solid Waste Handling Standards, as adopted by reference in WCC 24.06, Solid Waste Rules. The Health Department will also provide technical assistance to applicants and facility operators, and respond to complaints filed regarding activities at these facilities. Please feel free to call if there are any questions. Thank you.

From: Joshua Fleischmann  
Sent: Thursday, May 23, 2013 11:09 AM  
To: Jeff Hegedus  
Cc: Mark Personius  
Subject: Packinghouse waste language

Hello Jeff,

Following your presence at the Planning and Development Committee meeting on April 9th, you and I collaborated on language regarding waste handling. The language that we developed was:

- The facility shall comply with solid waste handling standards as set forth in WAC 173-350, as administered by the Whatcom County Health Department as adopted by reference in WCC 24.06.

At the Planning and Development Committee meeting on May 21st, the language that the committee forwarded to the County Council for introduction was:

- The facility shall provide and implement a waste management plan, approved by the Whatcom County Health Department and an approved state waste discharge permit from the Washington State Department of Ecology that complies with WAC 173-216, WAC 173-226 industrial stormwater permit (general permits), and/or an NPDES Permit (RCW 90.48 and WAC 173-220), if required by the Washington State Department of Ecology.

The attached Exhibit A will be discussed at the County Council Special Committee of the Whole on the morning of June 4th. From there, the Exhibit A (including any changes made at committee) will be sent for introduction that evening. If you have any comments you would like to provide, please do. I will be providing the packet to Dana Brown-Davis on Tuesday, so if you would like to provide comment, that would allow the most time for the Council to consider it. If you cannot provide comment by Tuesday, I can still relay any comments you provide at the Special Committee of the Whole meeting.

Thank You,  
Josh
BACKGROUND INFORMATION 4)
Packinghouses Review

Planning and Development Committee
May 21, 2013

Custom vs USDA

- Custom (Washington State Department of Agriculture)
  - Not for re-sale
  - 2 in Whatcom County (Columbia Valley Meats and Lynden Meats)
- USDA
  - Re-sale allowed
  - Each animal inspected
  - 1 in Whatcom County (Keizer Meats)
Regional Demand
2007 USDA Census of Agriculture

- 1,088,846 cattle statewide
- 308,957 Western Washington
  - 202,893 North Puget Sound (King, Snohomish, Skagit, Whatcom, San Juan, Island)
  - 95,500 Whatcom County (~31% of W. Wash.)

Regional Supply

- 14 USDA facilities statewide
  - 7 Eastern Washington
  - 7 Western Washington
    - 5 service independent producers
      - 2 cooperatives
      - 3 Public
        - 1 Halal; limited excess capacity
        - Pork only
        - Keizer Meats; limited excess capacity
    - 4 located in N. Puget Sound (King, Snohomish, Skagit, Whatcom, San Juan, Island)
      - 1 not open to independent producers
      - 1 cooperative
      - 1 Halal; limited excess capacity
      - Keizer Meats; limited excess capacity
Whatcom County Demand/Supply

- **Demand:**
  - 95,500 cattle/calves, 304 hogs/pigs, 547 lamb/sheep, 1209 goats, 430 misc. (2007, USDA)
  - ~115-120k cattle by other estimates
  - ~25-30k slaughtered/year

- **Supply:**
  - USDA Certified: Keizer Meats (permitted for 2,000 animals/year, though capacity limits to less)
  - Custom: Lynden Meats, Columbia Valley Meats (2012 slaughtered 889 cattle/calves, 325 hogs/pigs, 117 lambs

- Roughly 90% of animals leave the county for slaughter

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Figure 6

Counties with no small cattle slaughter facilities and 143 or more small cattle farms

143 is the median number of U.S. cattle farms per U.S. county. Small slaughter establishments are defined as having less than 500 employees. Small livestock/poultry farms are defined as having $250,000 or less in annual income from livestock sales.

Note: Alaska and Hawaii are not shown as they have no counties with 143 or more small cattle farms and no small cattle slaughter facilities.

Source: USDA, Food Safety and Inspection Service (FSIS). Farm size is based on the 2007 Census of Agriculture, conducted by USDA, National Agricultural Statistics Service. Slaughter establishment data are for 2010 from USDA/FSIS.
Cumulative Impacts

- According to one operator of a USDA approved facility in W. Washington, very real possibility of multiple facilities locating here

Accessory Use and Administrative Use

- No difference regarding water availability, waste, wastewater, fire flow, landscaping, parking, etc.
- Administrative approval allows comprehensive site review earlier in the process (ex: location of generators/holding pens)
- Administrative approval criteria in county code WCC 20.84.235 and 20.84.220
Administrative Approval approvals

- Since the year 2000, 393 administrative approval applications have been approved, while only 12 have been denied (97% approval decisions)
### TITLE OF DOCUMENT:
Resolution restoring the WRIA 1 Planning Unit

### ATTACHMENTS:

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
</tr>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
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</table>

### 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.)

Resolution restoring the WRIA 1 Planning Unit to assist the Whatcom County Council regarding water resources

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### COMMITTEE ACTION:
7/09/2013: Discussed. Committee wants Council to hold in Council for two weeks. Changes from Dan Gibson & Committee. Dan will present amended substitute tonight for Council staff to make available to the public tonight. This amended substitute will be the version in Council in two weeks.

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### COUNCIL ACTION:
5/21/2013: Introduced
6/04/2013: Referred to Public Works Committee on July 9.

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**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](http://www.co.whatcom.wa.us/council)
RESOLUTION NO. 2013-____

PROPOSED BY: BRENNER
SPONSORED BY: BRENNER, KNUTZEN, KREMEN
INTRODUCTION DATE: MAY 21, 2013

RESTORING-RECOGNIZING THE ROLE OF THE WRIA 1 PLANNING UNIT TO ASSIST THE WHATCOM COUNTY COUNCIL REGARDING WATER RESOURCES

WHEREAS, In 1998, the Washington State Legislature adopted ESHB 2514, 90.82 RCW, the Washington State Watershed Planning Act (WPA); and

WHEREAS, the RCW 90.82.005 states, "The purpose of this chapter is to develop a more thorough and cooperative method of determining what the current water resource situation is in each water resource inventory area of the state and to provide local citizens with the maximum possible input concerning their goals and objectives for water resource management and development"; and

WHEREAS, RCW 90.82.005 states, "The legislature finds that the local development of watershed plans for managing water resources and for protecting existing water rights is vital to both state and local interests. The local development of these plans serves vital local interests by placing it in the hands of people: Who have the greatest knowledge of both the resources and the aspirations of those who live and work in the watershed; and who have the greatest stake in the proper, long-term management of the resources. The development of such plans serves the state's vital interests by ensuring that the state's water resources are used wisely, by protecting existing water rights, by protecting instream flows for fish, and by providing for the economic well-being of the state's citizenry and communities. Therefore, the legislature believes it necessary for units of local government throughout the state to engage in the orderly development of these watershed plans"; and

WHEREAS, RCW 90.82.030 (1) states, "All WRIA planning units established under this chapter shall develop a process to assure that water resource user interests and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process"; and

WHEREAS, on May 5, 1998, Whatcom County Council unanimously adopted Resolution 1998-024 whereby Whatcom County affirmed its duty under RCW 90.82 to serve as "watershed planning lead agency" among the initiating governments; and

WHEREAS, on December 22, 1999, the WRIA 1 Planning Unit ("Planning Unit") was formed through adoption of the Watershed Management Project Planning Unit Process and Procedural Agreement. The Planning Unit included a broad range of water resource user interests and directly involved interest groups. Governmental participants included Whatcom County, PUD No. 1 of Whatcom County, the City of Bellingham, the State Department of Ecology, the Small Cities Caucus, the Water Districts Caucus, the Diking and Drainage Districts Caucus and the Port of Bellingham. Non-governmental participants included the following caucuses: agriculture, fishers, forestry, land development, environmental, private well owners, and non-municipal water systems; and

WHEREAS, in 2005 the Planning Unit approved and Whatcom County adopted the WRIA 1 Watershed Management Plan (WMP); and

WHEREAS, in 2007 the Planning Unit approved and Whatcom County adopted the WRIA 1 Detailed Implementation Plan (DIP), which was required pursuant to RCW 90.82.043; and
WHEREAS, both the WMP and DIP called for the Planning Unit to continue functioning to address, without limitation, instream flows and WMP updates; and

WHEREAS, Whatcom County Council has consistently recognized that review and approval of watershed plans and plan amendments shall be conducted by the Planning Unit in a continuous improvement process in the manner provided for by the Council-adopted WMP and DIP; and

WHEREAS, the Planning Unit has not met since June 30, 2009 and is consequently unable thus has not functioned to carry out its role as contemplated in the adopted WMP and DIP; and

WHEREAS, Whatcom County Charter states in Section 2.20 (c) that the legislature County Council has the power to “establish, abolish, combine and divide by ordinance, non-elective administrative offices and executive departments and to establish their powers and responsibilities”; and

WHEREAS, Whatcom County Charter states in Section 2.20 (d) that the legislature County Council has the power to “adopt by ordinance comprehensive plans, including improvement plans for the present and future development of the county,” and further, that “The enumeration of particular legislative powers shall not be construed as limiting the legislative powers of the County Council.”

NOW, THEREFORE BE IT RESOLVED:

Section 1: Finding. The Council finds that the Planning Unit is the advisory board established and responsible for recommending WRIA 1 water resource plans under RCW 90.82, including, without limitation, development of instream flow recommendations, and which is fully representative of the interests of local citizens in WRIA 1.

Section 2: Council Authority. The County Council has sole authority under Chapter 90.82 to finally approve and adopt by ordinance WRIA 1 water resource plans and plans necessary for implementation thereof.

Section 3: Request for Information. The County Council requests that the County ExecutivePlanning Unit report regularly to the Whatcom County Council, the legislative branch of the WRIA 1 Lead Agency, on the status of the Planning Unit’s work. The Council further requests that the County Executive facilitate this reporting function.

Section 4: Cooperation of County Officials. It is the policy of the County Council that Whatcom County shall support the Planning Unit as the Council deems necessary to fulfill all its functions and obligations.

Section 5: Governance and Structure. The County Council supports a Planning Unit that meets regularly as needed to discharge its responsibilities and conducts all meetings under the Open Public Meetings Act. It is the policy of the County Council that the Planning Unit shall review its adopted governance structure and operating rules as it deems necessary, so as to maintain a process to assure that water resource user interests, and directly involved interest groups at the local level have the opportunity, in a fair and equitable manner, to give input and direction to the process.

Section 6: Review and Approval of Watershed Plans. The County Council requests that the Planning Unit regularly review and approve [provide appropriate recommendations on] any ongoing assessments of the current water resource situation, including, but not limited to water
availability, instream flow, water quality, and habitat. As provided in the Watershed Planning Act, amendments to the WMP will be submitted to Whatcom County Council for approval.

Section 7: Coordinate with salmon recovery board. The County Council requests that the Planning Unit review the progress of salmon recovery efforts and provide input to the County to inform its participation on the salmon recovery board.

Section 8: Review and Comment on Water Resource Issues. The Whatcom County Council finds that the Planning Unit, by virtue of its expertise, experience, and inclusiveness, can add significant value for the Council and Executive by providing review and recommendations of water resources issues that come before the Council. The Council requests that the Planning Unit provide such review, within the parameters established in RCW 90.82.

APPROVED this ___ day of ________, 2013.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Civil Deputy Prosecutor
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Originator: Roland Middleton
Division Head: 
Dept. Head: 
Prosecutor: 
Purchasing/budget: 
Executive: 

Date
7/11/13
7/11/13
7/11/13
7/11/13
7/11/13

Date Received in Council Office
7/11/13

Agenda Date
7/23/13

Assigned to:
Council

TITLE OF DOCUMENT:
Resolution adopting the Swift Creek Sediment Management Action Plan and implementation of Phase 1 projects.

ATTACHMENTS:
Draft Resolution

SEPA review required? (x) Yes ( ) NO
SEPA review completed? (x) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes (x) 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.)

Adoption by resolution of the Swift Creek Sediment Management Action Plan and implementation of the Phase 1 projects.

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

To: The Honorable Jack Louws, Whatcom County Executive, and Honorable Members of the Whatcom County Council

From: Roland Middleton, LEG, Special Projects Manager
       Chris C. Brueske, P.E., Assistant Director

Through: Frank M. Abart, Director

Date: July 11, 2013

RE: Resolution adopting the Swift Creek Sediment Management Plan

As discussed at the June 25, 2013 Whatcom County Council Surface Water Work Session, Whatcom County Public Works Department is requesting the adoption by resolution of the Swift Creek Sediment Management Action Plan (SCSMAP) and implementation of the Phase 1 projects.

As requested, the Resolution is contingent upon satisfactory agreement between Whatcom County, the U.S. Environmental Protection Agency, and the Washington State Department of Ecology regarding management of the liability issue. In addition, the Resolution is contingent upon identification of available funding to implement the projects.
RESOLUTION NO.________

ADOPTION OF THE SWIFT CREEK SEDIMENT MANAGEMENT ACTION PLAN (SCSMAP) AND SCSMAP PHASE 1 PROJECTS PROPOSAL

WHEREAS, Swift Creek, originating on Sumas Mountain, has a long history of sediment loading and reduced hydraulic conveyance capacity with consequent flooding as a result of a natural landslide; and

WHEREAS, sediment from the slide is from a unique geologic deposit that contains naturally occurring asbestos; and

WHEREAS, in addition to the asbestos content, sediment from the slide is also known to contain trace metals; trace metals of concern include cadmium, cobalt, manganese, and nickel; and

WHEREAS, Whatcom County Public Works Department, on behalf of the Flood Control Zone District (FCZD), has prepared the Swift Creek Sediment Management Action Plan (SCSMAP) to address sedimentation and flooding that result in damage to agricultural, residential, and public assets and have the potential to affect public health; and

WHEREAS, Whatcom County Public Works Department, on behalf of the Flood Control Zone District (FCZD), has purposed the SCSMAP Phase 1 Projects to implement the goals and objectives of the SCSMAP; and

WHEREAS, the Whatcom County SEPA Official published a project and nonproject Draft Environmental Impact Statement (DEIS) for the SCSMAP and Phase 1 Projects on February 15, 2013; and

WHEREAS, pursuant to WAC 197-11-535, a public hearing on the Swift Creek Sediment Management Action Plan (SCSMAP) Draft EIS and SCSMAP Phase 1 Project Plan was held on March 13, 2013; and

WHEREAS, the Whatcom County SEPA Official published a project and nonproject Final Environmental Impact Statement (FEIS) for the SCSMAP and Phase 1 Projects on June 12, 2013; and

WHEREAS, Whatcom County continues to negotiate with State and Federal agencies on an agreement to resolve liability issues related to the Washington State Model Toxics Control Act (MTCA) and the Federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
WHEREAS, Whatcom County continues to work in cooperation with State and Federal agencies to identify funding for the implementation of the SC5MAP;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Swift Creek Sediment Management Action Plan (SC5MAP) and the SC5MAP Phase 1 Projects are adopted, contingent upon a satisfactory agreement with applicable state and federal agencies to resolve the issue of liability under MTCA and CERCLA. In addition, the adoption of the SC5MAP and Phase 1 Projects are contingent upon an appropriate funding source.

APPROVED this ____ day of ________, 2013.

ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

Daniel L. Gibson, Chief Civil Deputy Prosecutor

Page 2
WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>7/10/13</td>
<td></td>
<td>7/23/13</td>
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**TITLE OF DOCUMENT:** Reappointment to the Bellingham-Whatcom Public Facilities District.

**ATTACHMENTS:** Memorandum

| SEPA review required? | Yes | No |
| SEPA review completed? | Yes | No |

**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.)

County Executive Jack Louws recommends the confirmation of the reappointment of David Warren to the Bellingham-Whatcom Public Facilities District.

The City of Bellingham has been asked to confirm Mr. Warren as well.

**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

TO: Members of the Whatcom County Council

FROM: Jack Louws, County Executive

DATE: July 10, 2013

SUBJECT: Public Facilities District Reappointment

David Warren’s term on the Bellingham-Whatcom Public Facilities District will expire on July 30th, 2013. I and Mayor Linville wish to reappoint Mr. Warren for another term, and respectfully request your confirmation.

Mr. Warren has been a valuable asset and we believe his continued involvement will be beneficial to the PFD Board.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
---|---|---|---|---|---
Originator:  | SM | 7/12/13 | | July 23, 2013 | Council
Division Head: | | | |
Dept. Head: | | | |
Prosecutor: | | | |
Purchasing/Budget: | | | |
Executive: | | | |

TITLE OF DOCUMENT: Appointments to the Whatcom County Veteran’s Advisory Board

ATTACHMENTS: Applications for Appointment; 7/10/13 Memorandum re nominations

SEPA review required? ( ) Yes ( X ) NO
SEPA review completed? ( ) Yes ( X ) NO
Should Clerk schedule a hearing? ( ) Yes ( X ) 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.)

County Executive Jack Louws requests confirmation of his appointments of John Mitchell and Justin Powers to the Whatcom County Veteran’s Advisory Board.

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.
TO: Jack Louws, County Executive
FROM: Elizabeth Witowski, Veterans Specialist
DATE: July 10, 2013
RE: Nomination for Initial Appointment to the Veterans' Advisory Board

I am pleased to forward the nomination of John Mitchell and Justin Powers for initial appointment to the Whatcom County Veterans' Advisory Board (VAB).

The VAB nominating committee unanimously agreed to recommend John and Justin's appointment.

John and Justin are both young Veterans who will bring diversity to the board and be able to represent the needs of young Veterans returning to Whatcom County. They will round out the profile of our board members so that all service eras are well represented.

As you can see, John and Justin will provide valuable expertise in areas that will assist the Board in its work improving the lives of Whatcom County Veterans.

Thank you for considering these nominations for appointment.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: John Mitchell
Street Address: 36009 Taylor Ave
City: Bellingham
Zip Code: 98229
Mailing Address (If different from street address):

Day Telephone: 360-733-1700 Evening Telephone: 360-393-8176 Cell Phone: 360-393-8176
E-mail address: jn Mitchell13609@gmail.com

1. Name of board or committee-please see reverse: 
   Veteran's Advisory Board
   Veteran's Advisory Board Member

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)
   Yes ( ) No ( )

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ( ) Yes ( ) No

6. Are you registered to vote in Whatcom County? ( ) Yes ( ) No

7. Have you ever been a member of this Board/Commission? ( ) Yes ( ) No
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) Yes ( ) No
   If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   I have over 20 years of combined Active and Reserve Service in the U.S. Army. I have been deployed to Hungary, Bosnia, and Iraq. I have a degree in Instrumentation and Control Technology from Bellingham Technical College and currently serve as the Technical Director for Brooks Manufacturing.

10. Please describe why you’re interested in serving on this board or commission: As a Veteran with many years of service, I am deeply concerned with veterans issues.

References (please include daytime telephone number):
   Ward Nelson 715-5320

Signature of applicant:

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Justin S. Powers
Date: 5/22/2013
Street Address: 2148 Eastwood Way
City: Lynden, WA
Zip Code: 98264
Mailing Address (if different from street address):

Day Telephone: (714) 234-0092 Evening Telephone: (714) 234-0092 Cell Phone: (714) 234-0092
E-mail address: justin-powers-76@me.com

1. Name of board or committee—please see reverse: Veteran’s Advisory Board

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.)
   ___ YES ___ NO

4. Which Council district do you live in?
   ___ One ___ Two ___ Three

5. Are you a US citizen?
   ___ YES ___ NO

6. Are you registered to vote in Whatcom County?
   ___ YES ___ NO

7. Have you ever been a member of this Board/Commission?
   ___ YES ___ NO
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any
   business or agency that does business with Whatcom County?
   ___ YES ___ NO
   If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
   activities, and education.
   I currently served in the Naval Reserve and over the past 16 years have been part of the OIF(07-08) & OEF(09-10) camps.
   Using the Post 9/11 GI Bill, I am completing a BA in Psychology with an emphasis in Human Services at Trinity Western University, Bellingham.
   I hold a work-study position at the Veteran Center in Bellingham and have direct contact with veteran men and women of the County.

10. Please describe why you’re interested in serving on this board or commission: I am passionate about
    serving the veterans in our community. It is the ongoing need to represent those

References (please include daytime telephone number):
Mrs. Doris Kent (360) 393-5514
Mr. Michael Novotny (360) 733-9226
Mr. Christopher Brown (425) 346-2571

Signature of applicant: Justin S. Powers

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be
available to the County Council, County Executive, and the public. All board and commission members are
expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these
expectations may result in revocation of appointment and removal from the appointive position.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<thead>
<tr>
<th>CLEARANCES</th>
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<th>Date</th>
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<th>Agenda Date</th>
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<td>JUL 16 2013</td>
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**EXECUTIVE:***

**TITLE OF DOCUMENT:** 2013 Supplemental Budget Request #9

**ATTACHMENTS:** Ordinance, Memoranda & Budget Modification Requests

<table>
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<tr>
<th>SEPA review required?</th>
<th>( ) Yes ( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( X ) NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes ( X ) NO</td>
<td>Requested Date:</td>
<td></td>
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**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.)

Supplemental #9 requests funding from the General Fund:

1. To appropriate $44,500 in Non-Departmental to fund WhatComm E911 operations from grant proceeds.
   Conservation Futures Fund:
2. To appropriate $165,600 in Planning and Development Services to fund Funk farm purchase of development rights.

Real Estate Excise Tax I:
3. To appropriate $30,000 in Administrative Services – Facilities to fund security improvements to the Central Plaza Building.

Public Utilities Improvement Fund:
4. To appropriate $780,000 in Executive to fund Nooksack Water Treatment Plant upgrade.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**
ORDINANCE NO.
AMENDMENT NO. 9 OF THE 2013 BUDGET

WHEREAS, the 2013-2014 budget was adopted November 20, 2012; and,
WHEREAS, changing circumstances require modifications to the approved 2013-2014
budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by
the Whatcom County Council.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the 2013-
2014 Whatcom County Budget Ordinance #2012-048 is hereby amended by adding the
following additional amounts to the 2013 budget included therein:

<table>
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<tr>
<th></th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
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</thead>
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<tr>
<td>General Fund - Non Departmental</td>
<td>44,500</td>
<td>(44,500)</td>
<td>0</td>
</tr>
<tr>
<td>Conservation Futures Fund</td>
<td>165,600</td>
<td>(77,500)</td>
<td>88,100</td>
</tr>
<tr>
<td>Real Estate Excise Tax Fund I</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund</td>
<td>780,000</td>
<td>-</td>
<td>780,000</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td><strong>1,020,100</strong></td>
<td><strong>(122,000)</strong></td>
<td><strong>898,100</strong></td>
</tr>
</tbody>
</table>

ADOPTED this ____ day of ____________________, 2013.

ATTEST:

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Council

APPROVED AS TO FORM:

( ) Approved    ( ) Denied

Jack Louws, County Executive

Date: ____________________________
<table>
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<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased Expenditure (Decrease)</th>
<th>(Increased) Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
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<tbody>
<tr>
<td>General Fund - Non Departmental</td>
<td>To fund WhatComm E911 operations for 2013-2014 from grant proceeds.</td>
<td>44,500</td>
<td>(44,500)</td>
<td>-</td>
</tr>
<tr>
<td>Conservation Futures Fund</td>
<td>To fund Funk farm purchase of development rights.</td>
<td>166,600</td>
<td>(77,500)</td>
<td>88,100</td>
</tr>
<tr>
<td>Real Estate Excise Tax Fund I</td>
<td>To fund security improvements to the Central Plaza Building.</td>
<td>30,000</td>
<td>-</td>
<td>30,000</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund</td>
<td>To fund Nooksack Water Treatment Plant upgrade.</td>
<td>780,000</td>
<td>-</td>
<td>780,000</td>
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<tr>
<td>Total Supplemental</td>
<td></td>
<td>1,020,100</td>
<td>(122,000)</td>
<td>898,100</td>
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Supplemental Budget Request

Status: Pending

Executive

Supp'ID # 1564  Fund 1  Cost Center 4259  Originator: Suzanne Midner

Expenditure Type: One-Time  Year 1 2013  Add'l FTE  Add'l Space  Priority   1

Name of Request: WhatComm E911 Operations for 2013-14

X

Department Head Signature (Required on Hard Copy Submission)  Date: 7/12/13

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<td>State Enhanced 911 Funds</td>
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<td>7220</td>
<td>Intergov Subsidies</td>
<td>$44,500</td>
</tr>
<tr>
<td>Request Total</td>
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1a. Description of request:
This is a continuation of a state-funded (pass-through) grant from the Washington State Military Department to reimburse What-Comm Communications Center for eligible E911 operating expenditures under WAC 118-66-050 (eligible professional development and operational expenses).

1b. Primary customers:
City of Bellingham, What-Comm Communications

2. Problem to be solved:
What-Comm is able to access this State Military Department funding only by way of passing through the local county government (by subrecipient agreement). The acceptance of these grant funds ultimately reduces the cost to the community for 911 services.

3a. Options / Advantages:
The intergovernmental (subrecipient) grant agreement is the only way in which to access this source of funding on behalf of What-Comm Communications.

3b. Cost savings:
N/A

4a. Outcomes:
911 services cost reductions for our community due to state subsidies

4b. Measures:

5a. Other Departments/Agencies:
City of Bellingham, What-Comm Communications

5b. Name the person in charge of implementation and what they are responsible for:
Lt. William Slodysko, What-Comm Deputy Director

6. Funding Source:
Washington State Military Department
MEMORANDUM

To: Whatcom County Executive Jack Louws and
   Whatcom County Council Members
From: Suzanne Mildner, Grants Coordinator
Subject: Supplemental Budget Request for E911 funding (Pass through Grant to
         What-Comm)
Date: July 11, 2013

The County is in the process of entering into a subrecipient agreement with the City of
Bellingham to facilitate a pass-through grant from The Washington State Military
Department. The grant funding is for FY2013-14 Emergency 911 operational expenses
for What-Comm Communications.

The grant contract period is July 2013 through August 2014, for a total of $44,500. The
execution of the Subrecipient Agreement will be contingent upon your approval of this
budget authority. Accordingly, we are requesting approval for supplemental funding in
the amount of $44,500 to support 911 operations at What-Comm Communications.
MEMORANDUM

TO: Honorable Whatcom County Council Members
The Honorable Jack Louws, Whatcom County Executive

THROUGH: Sam Ryan, Director

FROM: Mark Personius, Long Range Planning Manager

DATE: July 1, 2013

RE: Resolution and Supplemental Budget Request for Funk Conservation Easement

Introduction

The Whatcom County Purchase of Development Rights (PDR) Program was initiated in September of 2001. The program has successfully purchased 110 development rights on approximately 778 acres. The Purchase of Development Rights Oversight Committee recommended the purchase of seven additional development rights on the 39-acre Funk farm property. A supplemental budget request in the amount of $165,600 is proposed, which will allow for this purchase to take place (see below for details). The action requested is to authorize purchase based on the contingencies included in the purchase and sale agreement. Attached to this memo are the supplemental budget request, purchase and sale agreement, and proposed agricultural conservation easement deed with exhibits.

Background and Purpose

The Funk property, located north of Birch Bay-Lynden Road Road, and west of Stein Road near its intersection with Loomis Trail Road, in unincorporated Whatcom County, is the fourteenth purchase under the County’s Agricultural Purchase of Development Rights Program. The property is currently an active farm, with a mix of raspberries and hayfields. It also contains riparian areas where the south fork of Dakota Creek passes through the northern portion of the property. This supplemental budget request totaling $165,600 provides for the cost of easement purchase and other associated costs (please refer to the table below).

After the purchase has been approved and completed, Whatcom County will issue a reimbursement request of $77,500 to the USDA-NRCS Farm and Ranch Lands Protection Program (through the Commodity Credit Corporation). Therefore, the final Whatcom County budget request will be $88,100.

The total purchase price for the existing developments rights on the farm is $155,000, and is acceptable to the owners. The value is derived by an appraisal completed by a professional appraiser, and confirmed by an appraisal reviewer. Fifty percent or
$77,500 of the easement purchase price will be reimbursed by the USDA-NRCS Farm and Ranch Lands Protection Program. The matching funds are from a 2012 Cooperative Agreement with Whatcom County (USDA Agreement No. 73-0546-12-003; Whatcom County Contract No.201208017).

**Funk PDR Supplemental Budget Request**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Purchase Price for Development Rights</td>
<td>$155,000</td>
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<tr>
<td>Whatcom Land Trust</td>
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<tr>
<td>· Monitoring fund fee</td>
<td>$4,600</td>
</tr>
<tr>
<td>· Background Documents preparation</td>
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<tr>
<td>Closing Costs</td>
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</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$165,600</strong></td>
</tr>
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</table>

USDA program match to be reimbursed $77,500

**Whatcom County - Conservation Futures Fund** $88,100

**Request Summary**

This request is consistent with Resolution 2010-022 (re-affirmed in Resolutions 2011-013 and 2012-012), which authorizes the Executive to enter into a purchase and sale agreement, provided:

- a. Appraisals are completed and conservation easements are drafted which meet the requirements of both the Whatcom County Purchase of Development Rights program, and the federal or state match funding agency;
- b. Matching funds are provided by either the Federal Farm and Ranchland Protection Program or the State Recreation and Conservation Office to cover 50% of each easement purchase price; and
- c. Landowners have agreed to the offer price and conservation easement conditions.

Commitments are in place for all of the above provisions related to the Funk easement purchase.

The purchase and sale agreement includes the understanding that the seller accepts the appraised value, accepts the terms and conditions contained in the conservation easement, and understands that this purchase is contingent on receiving matching funds from USDA-NRCS. It obligates both parties to act on the agreement within 90 days of signature. With the exception of approving the supplemental budget request, no further action will be required for the purchase of this conservation easement if all the terms of the purchase and sale agreement are met.

Upon county budget authorization, and authorization by the USDA-NRCS, final purchase of the Funk farm property conservation easement will be completed.

Please contact Mark Personius at 50620 if you have any questions or concerns regarding the terms of this request.
Supplemental Budget Request

Planning & Development Services

<table>
<thead>
<tr>
<th>Supp ID #</th>
<th>Fund</th>
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<tr>
<td>1560</td>
<td>175</td>
<td>17550</td>
<td>Becky Boxx</td>
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Expenditure Type: One-Time
Year 1 2013 Add'l FTE □ Add'l Space □ Priority 1

Name of Request: Funk PDR

X
Department Head Signature (Required on Hard Copy Submission) Date

Date: 7-2-13

Costs:

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<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tbody>
<tr>
<td>2910.1000</td>
<td>Fund Balance</td>
<td>($88,100)</td>
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<tr>
<td>4331.1091</td>
<td>Farmland Protection Prg</td>
<td>($77,500)</td>
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<tr>
<td>7320</td>
<td>Land</td>
<td>$165,600</td>
</tr>
</tbody>
</table>

Request Total $0

1a. Description of request:
The proposed budget amendment is for the purchase of development rights on the Funk farm. Over 39 acres will be under a perpetual conservation easement which will be monitored by Whatcom Land Trust. The Easement limits the uses on the property to soil based agriculture.

1b. Primary customers:
The community at large benefits from this program due to the permanent protection of the land for farming purposes. This area will never be developed with additional housing and will stay in low-service cost status in perpetuity. Multiple benefits to agriculture, wildlife, water quality and stormwater retention are among the benefits for the community.

2. Problem to be solved:
The primary focus of the Purchase of Development Rights Program is to permanently protect prime/productive agricultural land from conversion to non-agricultural uses. This property is prime and is located in an area targeted for agricultural land preservation by the Agricultural Advisory Committee.

3a. Options / Advantages:
The Agricultural Advisory Committee has considered the PDR program an integral component of any overall agricultural protection strategy. The Growth Management Act requires the protection of resource lands. This is one of several efforts the County is making to comply with the state requirement. Zoning and Open Space Taxation are other programs currently employed by Whatcom County to protect agricultural land. TDRs are contemplated in the future. PDRs are valuable partly because they are the only action currently available for the County to achieve permanent protection on agricultural lands.

3b. Cost savings:
Savings are difficult to quantify. Studies indicate that resource lands are the lowest cost properties for community services. Other savings are based on the benefits of not converting the property to some more intensive use. Water quality degradation, excessive stormwater runoff and increased costs for roads and other service provisions are eliminated when conservation easements establish a permanent agricultural development pattern in a given area. Maintaining a critical mass of viable agricultural land—especially land with water rights as this has—also helps support the agriculture economy.

4a. Outcomes:
The PDR program originally targeted 10,000 acres for purchase. Since that time the Council endorsed a "Rural Land Study" that has targeted some 25,000 acres of agricultural lands within rural zoned land that they would like to see with additional protection. This additional acreage will require significant increase in funding for the PDR program as well as the development of additional innovative techniques. The addition of this farm to the PDR land base will occur, if funded, by the end of September.

Friday, June 28, 2013
Supplemental Budget Request

<table>
<thead>
<tr>
<th>Planning &amp; Development Services</th>
<th>Planning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supp ID # 1580</td>
<td>Fund 175</td>
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</tbody>
</table>

4b. Measures:
The easement on this farm will be purchased with assistance from a Title company through a typical closing process. The successful closing of the easement purchase marks the outcome of this specific request.

5a. Other Departments/Agencies:
This project is a joint project which involves the USDA-NRCS (partial funding), the Whatcom Land Trust (on-going monitoring/enforcement responsibilities) and Whatcom County – PDR program administration/funding.

5b. Name the person in charge of implementation and what they are responsible for:
The Whatcom Land Trust will be responsible for the long-term monitoring under the terms of the conditions in the conservation easement and based on the contract that they have with Whatcom County.

6. Funding Source:
Conservation Futures Fund (as requested) and an existing contract with USDA-NRCS (through the Commodity Credit Corporation) for $77,500. USDA-NRCS will reimburse up to their contract amount after purchase. Therefore the total coming out of Conservation Futures will be $88,100.
FUNK
CONSERVATION EASEMENT DEED
PURCHASE AND SALE AGREEMENT

This CONSERVATION EASEMENT DEED PURCHASE AND SALE AGREEMENT ("Agreement") is entered into on _____ month/date, 2013 between Whatcom County, a municipal corporation ("Buyer"), and Thomas R. Funk and Diane Funk, property owners ("Seller").

RECITALS:

A. Seller is fee simple owner of real property (the "Property") in Whatcom County, Washington. Exhibit A of Attachment #1 is the legal description of the Property and is incorporated herein by reference.

B. The Buyer wishes to protect the Property from development and preserve its quality as productive farmland.

C. The Buyer desires to purchase and the Seller desires to sell an agricultural protection conservation easement deed ("Easement") under which Whatcom County and Whatcom Land Trust are grantees, a copy of which is attached as Attachment #1 and is incorporated herein by reference.

D. Seller acknowledges that $77,500 of the easement cost is provided by the Farm and Ranch Lands Protection Program of the Natural Resource Conservation Service – U.S. Department of Agriculture; and thus entitles them to the rights identified in the Easement Deed. The primary focus of this fund is to acquire development rights on farmlands and ensure the land remains available for agricultural practices.

E. The Property is approximately 38 acres and is currently farmed.

F. The Property has significant agricultural value to the Buyer and to the people of Whatcom County and the State of Washington.

G. Conveyance of rights and imposition of restrictions described in the Easement furthers the intent of Whatcom County Ordinance No. 2002-054, provided as Exhibit C of Attachment #1, to preserve land for agricultural purposes and has substantial public benefits.

H. As owner of the Property, Seller has the right to convey the rights and restrictions contained in the Easement in perpetuity.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:
AGREEMENT

1. Real Property. Seller agrees to sell and Buyer agrees to purchase an Agricultural Conservation Easement Deed ("Easement") in perpetuity over the Property, consisting of certain rights and restrictions as defined in the Easement.

2. Purchase Price. The total purchase price for the Conservation Easement ("Purchase Price") is one hundred and fifty five thousand DOLLARS ($155,000). The Purchase Price, less the Seller’s share of closing costs, will be paid to Seller at closing.

3. Title Policy. Seller shall cause Chicago Title Company to issue to Grantees at closing a standard coverage owner’s policy of title insurance insuring Grantees’ title to the Easement in the full amount of the Purchase Price subject only to the Permitted Encumbrances ("Title Policy"). The Title Policy must be dated as of the date of execution and delivery of the Easement (the "Closing Date").

4. Closing. The costs of closing, including but not limited to fees of an escrow agent, if any, and title insurance shall be divided and borne equally by the parties, except for excise tax which shall be paid by Seller. The Seller’s share shall be deducted from the Purchase Price and the reduced amount shall be reflected in the final payment. Closing will occur within 90 days of the signing of this Agreement, unless the parties agree otherwise.

5. Notices. Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service, given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Buyer: Whatcom County
Attn: Agricultural PDR Administrator
5280 Northwest Drive
Bellingham, WA 98226

With a copy to: Whatcom County Prosecutor’s Office
Attn: Royce Buckingham
311 Grand Ave.
Bellingham, WA 98225
Facsimile No.: 360-738-4561

Seller: Tom and Diane Funk
8421 Stein Road
Custer, WA 98240

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile, the same day as verified.
6. **Counterparts; Faxed Signatures.** This Agreement may be executed in any number of counterparts and by different parties hereto, each of which counterpart when so executed shall have the same force and effect as if that party had signed all other counterparts. Facsimile transmitted signatures shall be fully binding and effective for all purposes.

7. **Amendments.** This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer.

8. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the state of Washington.

9. **Time of the Essence.** Time is of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

10. **Nonmerger.** The terms and provisions of this Agreement, including without limitation, all indemnification obligations, will not merge in, but will survive, the closing of the transaction contemplated under the Agreement.

11. **Assignment.** Buyer shall not assign this Agreement without Seller’s prior written consent. Seller may not assign this Agreement, except in whole, without the Buyer’s prior written consent. As a condition to approving any assignment of this Agreement, Buyer may require that the assignee confirm its status as an institutional investor or otherwise confirm compliance with any securities laws. No assignee of this Agreement shall ever be permitted to certificate the payments to be made by the Buyer under this Agreement as part of a private placement or public securities offering.

12. **Additional Acts.** Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by any party hereto, the parties agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, any and all such further acts, deeds and assurances, which may reasonably be required to effect the Agreement contemplated herein.

13. **Condition of Property.** Seller agrees to deliver the Property to the Buyer in substantially the same condition that it was in on the date of this Agreement, normal farming practices excepted (i.e. harvesting, pasturing, etc.). Any activities undertaken by anyone, with or without the Seller’s permission and not permitted in Section VI of Attachment #1, or other activities that result in Property waste or render the Property unsuitable or unable to comply with the purpose of the conservation Easement as contained in Section III of Attachment #1 are prohibited. Such shall make this Agreement voidable by the County at its discretion.

14. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the purchase and sale of the Easement, and supersedes all prior agreements and understandings, oral or written, between the parties relating to the subject matter of this Agreement.
IN WITNESS WHEREOF, the parties have executed this Agreement as set forth above.

SELLER:

R. Deane Funk

Date: 7/9/2013

Thomas A. Funk

Date: 7/9/2013

STATE OF WASHINGTON

COUNTY OF WHATCOM

I certify that I know or have satisfactory evidence that Thomas and Diane Funk, husband and wife, are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the Sellers of the Property to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: July 9, 2013

Suzanne M. Mildner
Notary Public
Print Name Suzanne M. Mildner
My commission expires 12-31-14

(Use this space for notarial stamp/ seal)
BUYER:

WHATCOM COUNTY does hereby accept the above Purchase and Sale Agreement for Agricultural Conservation Easement Deed.

__________________________  Date: ______________________
Jack Louws, County Executive

Approved as to Legal Form:  ____________________________
Civil Deputy Prosecuting Atty

STATE OF WASHINGTON  )
  ) ss.
COUNTY OF WHATCOM  )

I certify that I know or have satisfactory evidence that __________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the __________________________ of __________________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

__________________________
Notary Public
Print Name __________________
My commission expires ____________

(Use this space for notarial stamp/seal)
After Recording Return To:

Whatcom Land Trust
P.O. Box 6131
Bellingham, WA 98227

DOCUMENT TITLE: WHATCOM COUNTY CONSERVATION EASEMENT

GRANTOR: THOMAS R. FUNK AND DIANE FUNK

GRANTEES: WHATCOM LAND TRUST AND WHATCOM COUNTY

ABBR. LEGAL DESCRIPTION: P# 400124 206460 0000

AGRICULTURAL CONSERVATION EASEMENT DEED

This Conservation Easement Deed ("Deed") is made and entered into this ___ day of July 2013, by Thomas Funk and Diane Funk ("Grantor"), the WHATCOM LAND TRUST ("Trust"), and WHATCOM COUNTY, WASHINGTON ("County") ("Grantees"), and the United States Department of Agriculture, Natural Resources Conservation Service ("NRCS") acting on behalf of the Commodity Credit Corporation, as its interest appears herein, for the purpose of forever conserving the agricultural productivity of the Protected Property and its value for resource preservation and as open space.

I. RECITALS.

The following recitals are a material part of this Easement.

A. Grantor is fee simple owner of real property (the "Protected Property") in Whatcom County, Washington, that is the subject of this Easement. Exhibit A is the legal description and Exhibit B is a site plan for that Protected Property, both of which are attached and incorporated herein by reference.

B. Under the authority of the Farm and Ranch Lands Protection Program, (16 U.S.C. Sections 3838h and 3838i) the United States Department of Agriculture’s Natural Resources Conservation Service (herein the "United States") has provided on behalf of the Commodity Credit Corporation $77,500.00 (Seventy-Seven Thousand Five Hundred and 00/100 dollars) to Grantee for the acquisition of this Conservation Easement, entitling the United States to the rights identified herein.
C. While “Grantees” include the Whatcom Land Trust and Whatcom County, use of the term “Grantees” does not imply that joint approval is required to exercise Grantees’ rights and responsibilities under this Easement. Those rights and responsibilities may be independently exercised by any Grantee.

D. The Protected Property is approximately 38.17 acres and is currently farmed.

E. The Protected Property has significant agricultural value to Grantees and to the people of Whatcom County and the State of Washington. The agricultural values include productive soil types and agricultural infrastructure as described in Exhibit D.

F. Grantor and Grantees agree that the conveyance of rights and imposition of restrictions described in this Easement furthers the intent of Whatcom County Ordinance No. 2002-054, provided in Exhibit C, to preserve land for agricultural purposes and has substantial public benefits.

G. As owner of the Protected Property, Grantor has the right to convey the rights and restrictions contained in this Easement in perpetuity.

II. CONVEYANCE AND CONSIDERATION.

A. For the reasons stated above, in consideration of mutual covenants, terms, conditions, and restrictions contained in this Easement, and in consideration of payment of $155,000 by Whatcom County and the United States to Grantor, Grantor hereby grants, conveys and warrants to Grantees a Conservation Easement in perpetuity over the Protected Property, consisting of certain rights and restrictions as defined in this Easement Deed.

B. This Easement Deed is a conveyance of an interest in real property under the provisions of RCW 64.04.130.

C. Grantor and Grantees intend that this Easement run with the land and that it shall be binding upon Grantor’s, successors and assigns in perpetuity.

III. PURPOSE.

The purpose of this Easement is to: (1) protect the present and future ability to use the Protected Property for agricultural purposes; (2) preserve the soil as a valuable resource and prevent activities that will impair the ability, now or in the future, to use the soil to produce food and fiber; (3) enable the Protected Property to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use and
utility, and to prevent any use or condition of the Protected Property that would significantly impair or interfere with its agricultural values, character, use or utility. This statement of purpose is intended as a substantive provision of the Easement. Any ambiguity or uncertainty regarding the application of the provisions of this Easement will be resolved so as to further this purpose. The grant of this Easement will also serve the "conservation purpose" of farmland protection as identified in Section 170(h)(4)(A) of the Internal Revenue Code.

IV. RELATIONSHIP OF PARTIES.

A. Unless noted otherwise, Whatcom County and the Whatcom Land Trust share all rights and responsibilities of Grantees under this Easement. For purposes of administering, monitoring and enforcing the terms of the Easement, the Whatcom Land Trust is the lead Grantee, unless Grantor is notified otherwise. As the lead Grantee, the Whatcom Land Trust has authority to act alone and at its sole discretion in exercising all rights and responsibilities of Grantees under this Easement. Grantor shall treat the Whatcom Land Trust as its contact for all matters regarding this Easement. Whatcom County and the Whatcom Land Trust may jointly take enforcement action, or if the Whatcom Land Trust fails to enforce the terms of this Easement, Whatcom County may do so alone.

B. The Trust will consult the County regarding any violation of the Easement that threatens the purpose of this Easement as described in Section III. If a less serious violation is determined to have occurred, the Trust will report to the County the nature of the violation and the response to that violation by the Trust.

C. The above Section IV.A. does not pertain to monitoring and enforcement of a conservation plan, the responsibility for which rests with the Natural Resource Conservation Service and Whatcom County as described in Section VIII A below.

V. RIGHT OF ENFORCEMENT.

Under this Conservation Easement, the United States is granted the right of enforcement in order to protect the public investment. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantees fail to enforce any of the terms of this Conservation Easement, as determined in the sole discretion of the Secretary.

Additionally, the United States is granted the right to enter the Property at a reasonable time and upon reasonable prior written notice to Grantor, for the purpose of making a general inspection.
of the Protected Property, in accordance with Federal Farm and Ranchland Program requirements.

VI. PERMITTED USES AND ACTIVITIES.

Grantor may:

A. Engage in the production of food and fiber and other uses and activities consistent with the purpose of this Easement so long as those uses or activities are not expressly prohibited in Section VII below.

B. Continue any use or activity not permitted by this easement at the time this Easement is signed provided it is not contrary to the purposes of this Easement and provided that such use or activity is described in this section.

C. Existing agricultural structures and roads may be removed, maintained, expanded or replaced and new agricultural structures, roads, and improvements used primarily for agricultural enterprises may be constructed by the Grantor on the Protected Property within the "Farmstead", as defined in Section XII of this Easement, and shown on Exhibit D, so long as expansion or new construction does not exceed the area of impervious surfaces allowed in Section VII D. Agricultural structures may include, without limitation, offices, warehouses, temporary farm worker housing, livestock housing and related structures, equipment storage and maintenance facilities, facilities related to the processing and sale of farm products predominately grown on the Protected Property, so long as the structures' primary use is to support the agricultural activities on the Protected Property or agricultural activities on other property under the control of the Grantor.

D. New agricultural buildings, structures, roads, or improvements proposed for locations outside of "Farmstead Area" may be built or placed only with the written permission of the Grantee. Permission shall be granted only if the agricultural productive capacity and open space character of the Protected Property are not significantly impaired by the construction and use of such structures, disturbance to prime, unique and important soils is minimized and all structures individually and combined are consistent with the terms of this Easement. For the purposes of this section, temporary hoop-houses and temporary greenhouses with no foundation are not considered agricultural building, structures or improvements that require Grantee permission. For the purposes of this section, existing fence repairs and replacement, and new fencing for the customary management of livestock or to delineate the boundary of the Protected Property is not considered agricultural building, structures or improvements that require Grantee permission.
E. Plant or maintain trees on the Agricultural Land, as defined in Section XII of this Easement only as follows:

1. Maintain a woodlot not to exceed two (2) acres for the production of firewood to be used on the Protected Property;
2. Plant Christmas trees and short rotation hardwoods not subject to the excise tax imposed by RCW 84.33, provided that adequate provision is made for the removal of trees, including stumps and roots, at the termination of the Christmas tree or short rotation hardwood farming operation.
3. Install and maintain trees on the riparian portion of the property according to the Conservation Reserve Enhancement Program and/or Best Management Practices in coordination with the Whatcom Conservation District.

F. Install a small-scale wind power generator for the primary purpose of generating electric power for use on the Protected Property, provided however that incidentally generated excess power may be sold through the electric grid and further provided that Grantee must approve the scale and location of any such small-scale wind power generator prior to installation.

G. Grantor has the right to conduct non-farm related commercial or industrial activity provided that conduct of such activity uses no more than one percent (1%) or one acre of the Protected Property, whichever is less, or provided such activity utilizes buildings existing at the time the Conservation Easement is signed and does not involve installation of facilities or expenditure of capital that would hinder the future use of buildings for agricultural purposes. Said activity must be compatible with the purpose of this Conservation Easement and agriculture and forestry uses of the Protected Property and subordinate to the agricultural and residential use of the Protected Property. Activities which market petroleum or chemical products are prohibited.

VII. PROHIBITED USES AND ACTIVITIES.

Unless specifically permitted by Section VI above, and as may be necessary to carry out those reserved rights, Grantor shall not engage in or permit any of the following activities on the Protected Property:

A. Use or activities inconsistent with the purpose of this Easement.

B. Legal or “de facto” division, subdivision, or partitioning of the land or the separate sale of any portion of the Protected Property, even if that portion of the Protected Property constitutes a separate legal parcel. This restriction does not prohibit minor
boundary line adjustments with adjoining agricultural land, provided there is no net loss in total acreage and no net loss of quantity or quality of Agricultural Land to the Protected Property, provided that no new parcel may be created by such boundary line adjustments, and provided Grantor has obtained prior approval of the Trust Grantee. This restriction also does not prohibit boundary line adjustments in the case of technical errors made in the survey or legal description. In such cases of error, boundary line adjustments cannot exceed 2 (two) acres for the entire Protected Property. Any new land gained through a boundary line adjustment is subject to the terms of this Easement Deed.

C. Place or construct any residential building, structures, or other residential improvements of any kind except those utilized to house farm workers.

D. Cover more than two percent (2%) of the area (approximately 33,254 square feet) of the Protected Property with impervious surfaces, including, without limitation, asphalt, concrete, gravel, buildings, or ponds, except animal waste holding ponds.

E. Construct non-agricultural structures or facilities.

F. Conduct any use or activity that removes or degrades the soil or impairs the ability to farm the Protected Property except for conservation or best management practices as specified in the NRCS Field Office Technical Guide for Whatcom County.

G. Transfer, encumber, sell, relinquish, forfeit or otherwise separate water rights from title to the Protected Property, except that, with the consent of the County, water rights may be either leased for a period not to exceed ten years for beneficial use for agricultural activities only on land other than the Protected Property, or temporarily enrolled in the state Trust Water Right Program for a period not to exceed ten years, or conveyed to the County as provided in Section VIII below.

H. Mine or extract soil, sand, gravel, oil or other mineral, except that Grantor may extract soil, sand, and gravel solely for a permitted use on the Protected Property in a manner consistent with the conservation purposes of this easement. Such alteration shall not exceed two acres. Land subject to such alteration shall be returned to pre-activity conditions in accordance with baseline data set forth in Exhibit D.

I. Use off-road motor vehicles on the Protected Property or grant permission for such use except as necessary in the accomplishment of the agriculture, forestry, habitat management, law enforcement and public safety, or conservation uses of the Protected Property, provided that no use of motorized vehicles shall create impacts that are detrimental to the productivity of the soils on the Protected Property and the Purposes of this Easement Deed.
J. Grant easements or rights-of-way for power lines, gas lines, sewer lines, water lines, telecommunications towers, and wind farms.

K. Expand or intensify any use or activity existing at the time this Easement Deed is signed that is contrary to the purpose of this Easement or prohibited in this section.

VIII. WATER RIGHTS.

A. The Parties agree that the Water Rights must be maintained on the Protected Property to ensure the protection of the Agricultural Values.

B. Grantee Trust will include in Baseline Data a copy of the documentation and any information available from Grantor regarding the history of the claimed water rights. In its monitoring visits, Grantee Trust will inquire regarding the status and protection of water rights and will include in its Annual Monitoring Report any new information about water rights on the Protected Property and concerns, if any, about whether water rights are being protected. If at any time Grantee Trust believes that Grantor is not sufficiently informed about protecting Grantor’s water rights, Grantee Trust will refer Grantor to Whatcom County and will urge Grantor to take the Water Rights protection actions in Section VI. H.

C. Under this Easement, Grantor is obligated to take appropriate action to protect water rights on the Protected Property. Section IV. RELATIONSHIP OF PARTIES notwithstanding, Whatcom County, not the Trust, has responsibility for enforcing this Grantor obligation. If Grantor fails to take appropriate action to protect water rights on the Protected Property, Whatcom County may pursue remedies in accordance with Sections XIII and XIV of this Easement or may itself take appropriate action to protect the water rights.

D. If Grantor is unable or unwilling to take the Water Rights protection action cited in Section VII. H., and the Water Rights are under threat of abandonment, relinquishment, loss or forfeiture, Grantor shall convey ownership of said Water Rights to County for County’s use in order to maintain the opportunity for agricultural activity elsewhere in Whatcom County.

IX. CONSERVATION PLAN.

A. As required by section 1238I of the Food Security Act of 1985, as amended, the Grantor, its successors, or assigns, shall conduct all agricultural operations on the Protected Property in a manner consistent with a Conservation Plan prepared in consultation with NRCS and approved by the Conservation District. This
conservation plan shall be developed using standards and specifications of the NRCS Field Office Technical Guide and 7 CFR Part 12 that are in effect on the date this Easement Deed is executed. However, the Grantor may develop and implement a Conservation Plan that proposes a higher level of conservation and is consistent with NRCS Field Office Technical Guide standards and specifications. The Conservation Plan is incorporated into this Conservation Easement Deed by reference. NRCS shall have the right to enter upon the Protected Property, with advanced notice to the Grantor, in order to monitor compliance with the Conservation Plan.

In the event of noncompliance with the Conservation Plan, NRCS shall work with the Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not to exceed twelve months, to take corrective action. If the Grantor does not comply with the conservation plan, NRCS will inform the County of the Grantor’s noncompliance. The County shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the conservation plan following written notification from NRCS that (a) there is a substantial, ongoing event or circumstance of noncompliance with the conservation plan, (b) NRCS has worked with the Grantor to correct such noncompliance, and (c) Grantor has exhausted its appeal rights under applicable NRCS regulations. The landowner shall be liable for any costs incurred by NRCS as a result of landowner’s negligence or failure to comply with the easement requirements as it relates to conservation planning violations.

If the NRCS standards and specifications for highly erodible land are revised after the date of this Deed based on an Act of Congress, NRCS will work cooperatively with the Grantor to develop and implement a revised Conservation Plan. The provisions of this section apply to the highly erodible land conservation requirements of the Farm and Ranch Lands Protection Program and are not intended to affect other natural resources conservation requirements to which the Grantor may be or become subject.

B. For the purpose of this Conservation Easement, references and requirements relating to highly erodible lands do not apply to land over which this Conservation Easement is granted. There are no highly erodible lands on the Protected Property and none have been designated in Whatcom County.

X. RIGHTS CONVEYED TO GRANTEES.

To accomplish the purpose of this Easement, the following rights are conveyed to Grantees:

A. To accomplish the purpose of this Easement and to enforce specific rights and restrictions contained in the Easement Deed.
B. (1) To enter the land at least once a year, at a mutually agreeable time and upon notice to the Grantor, for the purpose of inspection and monitoring compliance with this Easement;

(2) To enter the land at such other times as necessary if the Trust has reason to believe that a violation of the Easement is occurring or has occurred, for the purpose of mitigating or terminating the violation and otherwise enforcing the provisions of the Easement. Such entry will be with prior notice as is reasonable under the circumstances.

C. In the event of uses or activities inconsistent with the purpose and provisions of this Easement, The Trust may obtain damages, an injunction, abatement, rescission, restoration and any other remedies available in law or equity.

D. Forbearance by The Trust to exercise any rights under this Easement in the event of a breach shall not be deemed to be a waiver of Grantees’ rights under the Easement.

XI. NO PUBLIC ACCESS.

This Easement provides no right of access to the general public.

XII. BASELINE DATA.

To establish the present condition of the Protected Property so that Grantees are able to monitor future uses and assure compliance with the terms of this Easement, Grantees will, at their expense, by the date of this Easement prepare baseline data sufficient to establish the condition of the Protected Property as of the signing of this Easement Deed. The baseline data may consist of reports, maps, photographs, and other documentation. Grantor and Grantee will execute a statement verifying that the baseline data accurately represents the condition of the Protected Property as of this time. Baseline data is contained in Exhibit D. The baseline data will delineate the Homesite, Farmstead and Agricultural Land as defined below.

This Easement Deed specifically exempts the area and extent of the Homesite, which includes that portion of the Property used for residential buildings and buildings and uses accessory to residential buildings, containing approximately one acre of land. This exempted area is indicated in the baseline data.

The baseline data will specifically establish the extent of the Farmstead, which includes that portion of the Protected Property used for agricultural buildings, structures and improvements and those adjacent areas where future expansion of buildings, structures and improvements are contemplated.
The area not included in either the Homesite or Farmstead will be depicted under the category of Agricultural Land. Agricultural Land may include nonfarm areas such as critical areas and woodlands as well as cropland or grazing land.

XIII. INFORMAL DISPUTE RESOLUTION.

Grantor agrees to notify the Trust of any intended action that a reasonable person might believe would violate the terms of this Easement. Should a dispute arise concerning compliance with this Easement, Grantor and the Trust will meet within 15 days to discuss the matter in dispute. By mutual agreement, the Grantor and the Trust may agree to refer the matter in dispute to mediation or arbitration under such rules as the parties may agree. If arbitration is pursued, the prevailing party will be entitled to such relief as may be granted, to a reasonable sum for its costs and expenses related to the arbitration, including fees and expenses of the arbitrator and attorneys. The Trust may, at its discretion, forgo these informal dispute resolution alternatives if continuation of the use or activity in dispute threatens the purpose of this Easement.

XIV. GRANTEES’ REMEDIES.

A. If Grantees determine that the Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantees shall give written notice to the Grantor of such violation and request corrective action sufficient to cure the violation and to restore the Protected Property to its prior condition.

B. If Grantor does not take immediate action to cure the violation and restore the Protected Property, Grantees may institute legal proceedings for injunctive relief, abatement, restoration, or damages, including costs and attorneys’ fees reasonably incurred in prosecuting the action, and any other remedies available in law or equity.

C. In the event Grantees or the United States take legal action to enforce the terms of this Easement, the cost of restoring the Protected Property and Grantees’ and the United States’ reasonable enforcement expenses, including attorneys’ and consultants’ fees, shall be borne by the Grantor. In the event Grantees secure redress for an Easement violation without initiating or completing judicial proceedings, the cost of such restoration and reasonable expenses shall be borne by the Grantor. If Grantor ultimately prevails in any judicial proceedings initiated by Grantees or the United States to enforce the terms of this Easement, each party shall bear its own costs.

D. If Grantees, in their sole discretion, determine that circumstances require immediate action to prevent or mitigate significant damage in violation of this Easement, Grantees may immediately pursue their legal remedies without prior notice to Grantor as set forth in paragraph A.
E. Grantees may not recover damages or require restoration for damage to the Protected Property resulting from causes beyond Grantor’s control, such as fire, flood, storm, or earth movement that Grantor could not reasonably have anticipated or prevented.

XV. RESPONSIBILITY FOR COST AND LIABILITIES.

Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including maintenance of adequate liability insurance and payment of all taxes. Grantees assume no affirmative obligations for the management, supervision or control of the Protected Property or any of the activities occurring on the Protected Property. Grantor shall indemnify Grantees and the United States, and hold Grantees and the United States harmless from all damages, costs (including, but not limited to, attorneys’ fees and other costs of defense incurred by Grantees), and other expenses of every kind arising from or incident to any claim or action for damages including but not limited to, the release, use or deposit of any hazardous material (as defined in Section XIX. L. below) on the Protected Property, injury or loss suffered or alleged to have been suffered on or with respect to the Protected Property.

XVI. EXTINCTION AND TRANSFER.

A. If circumstances arise that render the purpose of this Easement impossible to accomplish, the Easement can be extinguished only by judicial proceedings and upon approval of the United States. In the event of such an extinguishment or the taking of the Protected Property by the exercise of the power of eminent domain, Grantor shall pay to Whatcom County and the United States in proportion to their contribution to the purchase price. At the time this Deed was recorded the United States contribution was 50 percent and Whatcom County's contribution was 50 percent. In the event this easement is terminated or extinguished, NRCS shall collect the Commodity Credit Corporation’s share of the conservation easement based on the appraised fair market value of the conservation easement at the time the easement is extinguished or terminated. The Commodity Credit Corporation’s share will be in proportion to its percentage of original investment.

B. Grantor agrees to:

1. Incorporate the terms of this Easement by reference in any deed, lease, executory contract or other legal instrument by which it divest itself, or intends to divest itself, of any permanent or temporary interest in the Protected Property.
2. Give written notice to the Grantees of the transfer of any interest in the Protected Property no later than 45 days prior to the date of such transfer. Such notice shall include the name, address, and telephone number of the prospective recipient. Failure to provide such notice to the Grantees shall not limit the legal obligations imposed by this Easement on any recipient of an interest in the Protected Property.

C. Whatcom Land Trust's rights and interest in this Easement are assignable only to an agency or organization that is approved by United States and Whatcom County and authorized to hold conservation easements under RCW 64.04.130 or RCW 84.34.250, or otherwise qualified at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended. As a condition of such transfer, Grantees shall require that the transferee exercise its rights under the assignment consistent with the purpose of this Easement. Grantees shall notify Grantor in writing in advance of such an assignment. The failure of Grantees to give such notice shall not affect the validity of such assignment, nor shall it impair the validity of this Easement or limit its enforceability.

XVII. AMENDMENT.

Upon approval of the United States, Grantor and all Grantees may agree to amend this Easement provided that such an amendment does not diminish the effectiveness of this Easement in carrying out its purpose and that the result of the amendment is to strengthen the effectiveness of the Easement.

XVIII. SUBORDINATION.

Any mortgage or lien arising after the date of this conservation easement Deed shall be subordinated to the terms of this easement, substantially in the form of the instrument attached hereto as Exhibit F.

XIX. GENERAL PROVISIONS

A. Notices.
Any notice under this Conservation Easement Deed must be in writing and be personally delivered, delivered by recognized overnight courier service, given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:
Grantor: Thomas and Diane Funk
8421 Stein Road
Custer, WA 98240

Grantee, Trust: Whatcom Land Trust
PO Box 6131
100 Central Ave
Bellingham, WA 98225

Grantee, County: Whatcom County
Attn: Agricultural PDR Administrator
5280 Northwest Drive
Bellingham, WA 98226

NRCS: USDA-NRCS
316 West Boone Avenue
Spokane, WA 99201

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile, the same day as verified.

B. Controlling Law.
The interpretation or performance of this Easement shall be governed by the laws of the State of Washington. Any legal proceeding regarding this Easement shall be initiated in Whatcom County Superior Court.

C. Liberal Construction.
Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of RCW 64.04.130 and Chapter 84.34 RCW and Whatcom County Ordinance 2002-054. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render that provision valid shall be favored over an interpretation that would render it invalid.

D. Severability.
If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the Easement, or its application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected.

E. Entire Agreement.
This instrument sets forth the entire agreement of the parties with respect to the Protected Property and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Property, all of which are merged into this Easement.

F. **No Forfeiture.**
Nothing contained in this Easement will result in a forfeiture or revision of Grantor's title in any respect.

G. **Warranty of Good Title.**
Grantor warrants that Grantor has good title to the Protected Property; that the Grantor has the right to convey this conservation easement; and that the Protected Property is free and clear of any encumbrances other than those listed below.

H. **Grantor-Grantees.**
The terms “Grantors” and “Grantees,” wherever used in this Easement, and any pronouns used in their place, shall be held to mean and include respectively the above named Grantor, its, successors, and assigns, and the above-named Grantees, their successors and assigns.

I. **Successors and Assigns.**
The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective successors, and assigns, and shall continue as a servitude running in perpetuity with the Protected Property.

J. **Federal Enforcement.**
In the event that the Grantees fail to enforce the terms of this Easement as determined in the sole discretion of the Secretary of the United States Department of Agriculture ("Secretary"), the Secretary, his or her successors and assigns shall have the right to enforce the terms of the Easement through any and all authorities available under Federal or State law. In the event that Grantees attempt to terminate, transfer or otherwise divest themselves of rights, title or interest in the Easement or extinguish the Easement without prior consent of the Secretary, all right, title, or interest in this Easement shall become vested in the United States of America. The United States shall be entitled to recover any and all administrative and legal costs from the County Grantee, including attorney fees or expenses, associated with any enforcement or remedial action as it relates to the FRPP easement.

K. **General Indemnification**
Grantor shall indemnify and hold harmless Grantees and the United States, their employees, agents and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other
liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorney’s fees and attorney’s fees on appeal) to which Grantees may be subject or incur relating to the Protected Property, which may arise from, but is not limited to, Grantor’s negligent acts or omissions or Grantor’s breach of any representation, warranty, covenant, agreements contained in this Conservation Easement Deed, or violations of any Federal, State, or local laws, including all Environmental Laws.

L. Environmental Warranty

Grantor warrants that it is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantees against all litigation, claims, demands, penalties and damages, including reasonable attorneys’ fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor’s indemnification obligation shall not be affected by any authorizations provided by the Trust, the County, or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by the Trust or the County at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after this date to the Protected Property by Trust or the County.

“Environmental Law” or “Environmental Laws” means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials and any other element, compound, mixture, solution or substance which may pose a present or
potential hazard to human health or the environment.

M. Merger
The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of this conservation easement deed are set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the protected property by or to the Grantee, the United States, or any successor or assignee will be deemed to eliminate these conservation easement terms, or any portion thereof, pursuant to the doctrine of "Merger" or any other legal doctrine.

In the event that either Grantee takes legal title to Grantor's interest in the Protected Property, that Grantee shall commit the monitoring and enforcement of the Conservation Easement to another qualified organization within the meaning of section 107(h)(3) of the United States Internal Revenue Code (1986) as amended, which organization has among its purposes the conservation and preservation of land and water areas.

XX. SCHEDULE OF EXHIBITS.

A. Legal Description of Property Subject to Easement
B. Site Map
C. Ordinance # 2002-054
D. Baseline Data
E. Water Rights
F. Subordination Agreement example

TO HAVE AND TO HOLD unto Grantees and the United States of American, and their successors, and assigns forever.

REMAINDER OF PAGE IS INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW
IN WITNESS WHEREOF, the undersigned Grantor has executed this instrument this 
9th day of July, 2013.

[Signature]
Grantor

[Signature]
Grantor

STATE OF WASHINGTON )
) ss.
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that Thomas Funk & Diane Funk, 
husband and wife, are the persons who appeared before me, and said persons acknowledged that they signed 
this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the 
Grantors of the Protected Property to be the free and voluntary 
act of such party for the uses and purposes mentioned in the instrument.

Dated: July 9, 2013

[Signature]
Suzanne M. Mildner
Notary Public
Print Name Suzanne M. Mildner
My commission expires 12-31-14

(Use this space for notarial stamp/seal)
WHATCOM COUNTY does hereby accept the above Agricultural Conservation Easement Deed.

Dated: ____________________________

Grantee

By ____________________________

Jack Louws, County Executive

Approved as to Legal Form:

By ____________________________

Senior Civil Deputy Prosecuting Attny

STATE OF WASHINGTON )
) ss.
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that ____________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ____________________________

Notary Public
Print Name ____________________________
My commission expires ____________________________

(Use this space for notarial stamp/seal)
ACCEPTANCE OF PROPERTY INTEREST BY THE NATURAL RESOURCES
CONSERVATION SERVICE

The Natural Resources Conservation Service, an agency of the United States Government,
hereby accepts and approves the foregoing conservation easement deed, and the rights conveyed
therein, on behalf of the United States of America.

_________________________________________  _______________________
Authorized Signatory for the NRCS                     Date

State of ______________________
County of ______________________

On this ___ day of __________, 20___, before me, the undersigned, a Notary Public in
and for the State, personally appeared __________________ known or proved to me to be the
person whose signature appears above, and who being duly sworn by me, did say that he is the
Contracting Officer of the Natural Resources Conservation Service, United States Department of
Agriculture, is authorized to sign on behalf of the agency, and acknowledged and accepted the
rights conveyed by the deed to be his voluntary act and deed.

In witness whereof, I have hereunto set my hand and official seal the day and year first above
written.

_________________________________________
Notary Public for the State of Washington
Residing at _____________________________
My Commission Expires ____________________
The WHATCOM LAND TRUST, a Washington nonprofit corporation, does hereby accept the above Agricultural Conservation Easement Deed.

Dated: ______________________

By ______________________

Its ______________________

STATE OF WASHINGTON )
) ss.
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that ____________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the ____________________ of ____________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

______________________________
Notary Public
Print Name
My commission expires ____________________

(Use this space for notarial stamp/seal)
EXHIBIT A

Legal Description

All that portion of the Northeast Quarter of the Northwest Quarter, Section 24, Township 40
North, Range 1 East of W.M., described as follows:
Commencing at the Northeast corner of said Northeast Quarter of the Northwest Quarter; thence
South 330 feet to the point of beginning; thence South 660 feet; thence West 330 feet; thence
North 660 feet; thence East 330 feet to the point of beginning;
Except Stein Road along the East line thereof; Also Except those portions deeded to Whatcom
County for road purposes under Auditor's File No.'s 2000500249, 2000500291 and 2000800514,
records of Whatcom County, Washington.

Situate in Whatcom County, Washington.

APN/Parcel ID: 118316
Tax Map ID: 400124 206460 0000

This Easement Deed excepts 1 acre including the homesite as indicated in Exhibit D – Baseline
Documentation.

The above legal description is subject to the following encumbrances:

GENERAL EXCEPTIONS

A. Rights or claims of parties in possession, or claiming possession, not shown by the Public
Records.

B. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the
Title that would be disclosed by an accurate and complete land survey of the Land.

C. Easements, prescriptive rights, rights-of-way, liens or encumbrances, or claims thereof, not
shown by the Public Records.

D. Any lien, or right to a lien, for contributions to employee benefit funds, or for state workers'
compensation, or for services, labor, or material heretofore or hereafter furnished, all as imposed
by law, and not shown by the Public Records.

E. Taxes or special assessments which are not yet payable or which are not shown as existing
liens by the Public Records.

F. Any lien for service, installation, connection, maintenance, tap, capacity, or construction or
similar charges for sewer, water, electricity, natural gas or other utilities, or for garbage
collection and disposal not shown by the Public Records.

A-1
G. Unpatented mining claims, and all rights relating thereto.

H. Reservations and exceptions in United States Patents or in Acts authorizing the issuance thereof.

I. Indian tribal codes or regulations, Indian treaty or aboriginal rights, including easements or equitable servitudes.

J. Water rights, claims or title to water.

K. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records, or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires of record for value the estate or interest or mortgage thereon covered by this Commitment.

SPECIAL EXCEPTIONS

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.

2. Unpatented mining claims; reservations or exceptions in the United States Patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.

3. Title to any property beyond the lines of the real property expressly described herein; or title to streets, roads, avenues, lanes, ways or waterways on which such real property abuts, or the right to maintain therein vaults, tunnels, ramps, or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.

4. Any question that may arise due to shifting and changing in the course or boundaries of South Fork Dakota Creek.

5. General and special taxes and charges, payable February 15, delinquent if first half unpaid on May 1, second half delinquent if unpaid on November 1 of the tax year (amounts do not include interest and penalties):

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
<td>2012</td>
</tr>
<tr>
<td>Tax Account Number</td>
<td>118316/400124 206460 0000</td>
</tr>
<tr>
<td>LevyCode</td>
<td>2040</td>
</tr>
<tr>
<td>Assessed Value-Land</td>
<td>$338,840.00</td>
</tr>
<tr>
<td>Assessed Value-Improvements</td>
<td>$92,743.00</td>
</tr>
<tr>
<td>General and Special Taxes</td>
<td>$1,668.23</td>
</tr>
<tr>
<td>Billed</td>
<td>$834.14</td>
</tr>
</tbody>
</table>
Unpaid: $834.09

6. The Land has been classified as Farm and Agricultural and is subject to the provisions of RCW 84.34, which include the requirement of a continuation of restricted use in order to continue the present assessment rate. A change in use can cause an increased assessment rate for present and past years. Notice of Application was recorded as set forth below:
Recording Date: March 23, 1977
Recording No.: 1245958

Any sale or transfer of all or a portion of said Land requires execution of a Notice of Compliance Form by the new owner and submission to the county assessor within 60 days of such sale.

Note: If the proposed transaction involves a sale of the Land so classified or designated, there will be additional requirements regarding the Real Estate Tax Affidavit. Please contact Whatcom County Assessor's Records Section or the Company for additional information.

7. An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document
Entitled: Memorandum of Farm Lease
Lessor: Tom Funk and Diane Funk, husband and wife
Lessee: Maberry Packing, Inc., a Washington business corporation
Recording Date: March 12, 1999
Recording No.: 1990302487

8. An unrecorded lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document
Entitled: Memorandum of Lease
Lessor: Tom Funk and Diane Funk, husband and wife
Lessee: Maberry Packing, Inc., a Washington corporation
Recording Date: March 10, 2004
Recording No.: 2040301966

9. A deed of trust to secure an indebtedness in the amount shown below,
Amount: $ 147,000.00
Dated: August 17, 2003
Trustor/Grantor Thomas R. Funk and R. Diane Funk, husband and wife
Trustee: First American Title Insurance Company
Beneficiary: Washington Mutual Bank
Recording Date: August 25, 2003
Recording No.: 2030806733

10. A deed of trust to secure an indebtedness in the amount shown below,
Amount: $ 35,000.00
Dated: September 18, 2003
Trustor/Grantor: Thomas R. Funk & R. Diane Funk
Trustee: Group 9, Inc
Beneficiary: Washington Mutual Bank
Recording Date: October 1, 2003
Recording No.: 2031000240
Modification thereto:
Recorded: March 1, 2007
Recording No.: 2070300059

11. Farm Lease, or memorandum thereof, including its terms, covenants, conditions and provisions:
Dated: March 2, 2004
Recorded: September 28, 2010
Recording No.: 2100903178
Lessor: Tom & Diane Funk
Lessee: Maberry Packing, Inc.
Affects: Portion of said premises

END OF EXCEPTIONS
Whatcom County 2012 PDR Program Property
- Proposed Protected Area

Funk Property

APN 400124 206460 - 39.17 Acres

January 2012

B-1
EXHIBIT C: Ordinance

SPONSORED BY: Planning
PROPOSED BY: Planning
INTRODUCTION DATE: 8/13/02

ORDINANCE NO. 2002-096

ESTABLISHING AN AGRICULTURAL PURCHASE OF DEVELOPMENT RIGHTS PROGRAM AND OVERSIGHT COMMITTEE

WHEREAS, Whatcom County government recognizes agriculture as a major contributor to the local economy and a high quality of life for Whatcom County citizens; and

WHEREAS, The Growth Management Act and the County Comprehensive Plan support the retention of agricultural lands of long term commercial significance and encourage the use of innovative techniques to do so, and

WHEREAS, Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring open space, wetlands, farm and agricultural land, and timber land, and

WHEREAS, Resolution #2001-049 authorized the creation of a Purchase of Development Rights Steering Committee with the charge to develop a PDR program for Whatcom County by April 30, 2002 and authorized the County Executive to expend up to $30,000 for outside contract assistance in preparing the PDR program, and

WHEREAS, Resolution #2001-049 also committed the Council to expend a fair and significant share of the Conservation Futures Funds for acquiring interest in agricultural lands; and

WHEREAS, The Purchase of Development Rights Steering Committee met regularly from October 2001 through April 2002 and forwarded a recommendation in May of 2002; and

WHEREAS, Council reviewed the Purchase of Development recommendation from the PDR Steering Committee and requested PDS staff to develop a Purchase of Development Rights Ordinance; and

WHEREAS, Council held a public hearing on September 10, 2002 to take public comment on the Agricultural Purchase of Development Rights program.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that

1. The Agricultural Purchase of Development Rights program is adopted as attached in Exhibit 1

C-1
2 Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ___ day of September, 2002.

ATTEST:

Dana Brown-Davis,
Clerk of the Council

Ward Nelson, Council Chair

APPROVED as to form

Karen N. Frakes, Civil Deputy Prosecutor

Pete Kremen, Executive

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

C-2
EXHIBIT D

Baseline Documentation

The Baseline Data Inventory for the Funk Agricultural Conservation Easement Deed is included in the following pages. The remainder of this page is intentionally blank.
EXHIBIT D

FUNK AGRICULTURAL PROTECTION CONSERVATION EASEMENT

Baseline Data Inventory
Whatcom Land Trust

BACKGROUND INFORMATION:

Property Owners
Thomas R. Funk
R. Diane Funk

Physical Address
8421 Stein Road
Custer, WA 98240

Grantors
Thomas R. Funk
R. Diane Funk

Grantees
Whatcom Land Trust,
Whatcom County, and
United States of America

Easement History

In consideration of payment of $155,000 by Whatcom County and the United States to Grantors, Grantors hereby grant, convey and warrant to Grantees a Conservation Easement in perpetuity over the Property, consisting of certain rights and restrictions as defined in this Easement, granted in 2013.

Easement Purpose

The purpose of this Easement is to:
(1) Protect the present and future ability to use the Property for agricultural purposes;
(2) Preserve the soil as a valuable resource and prevent activities that will impair the ability, now or in the future, to use the soil to produce food and fiber;
(3) Enable the Property to remain in agricultural use for the production of food and fiber by preserving and protecting in perpetuity its agricultural values, character, use and utility, and to prevent any use or condition of the Property that would significantly impair or interfere with its agricultural values, character, use or utility.

The grant of this Easement will also serve the "conservation purpose" of farmland protection as identified in Section 170(h) (4) (A) of the Internal Revenue Code. This statement of purpose is intended as a substantive provision of the Easement. Any ambiguity or uncertainty regarding the application of the provisions of this Easement will be resolved so as to further this purpose.

Purpose of a Baseline Data Inventory

To establish the present condition of the Property so that Grantees are able to monitor future uses and assure compliance with the terms of this Easement. The baseline data may consist of reports, maps, photographs, and other documentation. The baseline data specifically establishes the extent of the Farmstead, which includes that portion of the Property used for primary and secondary agricultural buildings, structures and improvements and those adjacent areas where future expansion of buildings, structures and improvements are contemplated. The area not included in the Farmstead will be depicted under the category of "Farmland". Farmland may include non-farm areas such as critical areas and woodlands as well as cropland or grazing land.
DESCRIPTION OF PROPERTY:

Driving Directions
From Bellingham, travel north on Interstate-S. Turn left on exit 270, right on onto Birch Bay-Lynden Rd. Turn left onto Stein Rd, travel north for .8 miles. Property is on the left, west side of Road.
Address: 8421 Stein Road
(See Vicinity Map)

General Description
The Funk property is located in Western Whatcom County in the Dakota Creek watershed near Custer. The Funk family has worked their 38.54 acre farm since the 1966. The 38.54 acre property has a home (excluded from the Conservation Easement) and farmstead and is currently used raspberry production. There is a hay field in the northern half of the property and the South Fork of Dakota Creek runs through the property surrounded by Conservation Reserve Enhancement Program (CREP) plantings.
(See Vicinity and Topographic Map)

General Attributes
Assessor's Tax Parcels: total of approximately 38.17 acres - APN - 400124206460

GIS acres is approximately 38.54 acres
(See Parcel Map)

Property Elevation
The property is generally flat at approximately 60 feet above sea level with gentle micro relief. The South Fork of Dakota Creek passes through the property flowing east to west at approximately the 50 ft. contour. The very south west corner of the property slopes to an unnamed tributary stream also at the 50 foot contour.
(See Topographic Map and 2011 Air Photo Map)

Property History
The property was purchased by the Funk family in 1966 from Rolf Michaelson. The farm has been utilized for hay and cattle grazing, strawberry production, and since 2000 used for raspberry production. It is currently leased by Mayberry Packing L.L.C.

Current Land Use and Development
The property is currently leased by another farmer for the production of raspberries.

According to the Whatcom County Planning and Development Services, the property is zoned R5A.

There is a house in the center of the eastern edge of the property facing Stein road that is excluded from the Conservation Easement. There is a barn located to the north of the homesite near Stein road and there is power at barn. There is an irrigation station on a concrete pad supplied with power at Photo Point 12. This station also supplies water to a stand pipe west of the pad.

There is no non-farm related commercial use of the property at this time of conveyance of the conservation easement.
Other Human-made Features

Photo Point 1 is the main access point to the property from Stein Road. (See Photos and Photo Points Map)

ECOLOGICAL FEATURES:

PHYSICAL FEATURES:

Impervious Surfaces

<table>
<thead>
<tr>
<th>Table I. Funk Impervious Surfaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impervious Surfaces</td>
</tr>
<tr>
<td>Total Area</td>
</tr>
<tr>
<td>sq. ft.</td>
</tr>
<tr>
<td>acres</td>
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</tbody>
</table>

6,173 square feet of impervious surfaces exist on the 38.54 acre property. The maximum impervious surface allowed by this conservation easement is two percent (2%) or 33,581 square feet (.77 acres) of the property (See Table 1).

The Farmstead is the Northeast quarter of the 38.54 acre property. (See Photo Point Map)

Soils

Soil descriptions from the USDA Soil Survey for Whatcom County (1992)

Soil Units:

100- Lynden sandy loam, 3 to 8 percent slopes (38.5 percent of property)
54- Fishtrap muck, drained, 0 to 2 percent slopes (23.8 percent of property)
62- Hale silt loam, drained, 0 to 2 percent slopes (18.5 percent of property)
99- Lynden sandy loam, 0 to 3 percent slopes (12 percent of property)
45- Edmonds-Woodlyn loamy, drained, 0 to 2 percent slopes (4.1 percent of property)
165- Tromp loam, 0 to 2 percent slopes (3 percent of property)

45-Edmonds-Woodlyn loamy, drained, 0 to 2 percent slopes.
This map unit is on outwash terraces and outwash plains. The native vegetation is mainly trees and shrubs. Elevation is 50 to 300 feet. The average annual precipitation is about 45 inches, the average annual air temperature is about 50 degrees F. and the average frost-free period is about 170 days. This unit is 60 percent Edmonds soil and 25 percent Woodlyn soil. The components of this unit occur as areas so intricately intermingled that mapping them separately was not practical at the selected scale of mapping. Included in this unit are small areas of Tromp, Hale, and Fishtrap soils, ponded areas in depressions, and undrained Edmonds and Woodlyn soils. Included areas make up about 15 percent of the total acreage. The Edmons soil is very deep and somewhat poorly drained. It has been artificially drained. It formed in an admixture of loess and volcanic ash over glacial outwash. Typically, the surface layer is dark brown loam 11 inches thick. The subsurface layer is dark grayish brown loam 7 inches thick. The subsoil is dark brown and yellowish red, discontinuously cemented, mottled sand 19 inches thick. The substratum to a depth of 60

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1 The acreage and equivalent square footage in this baseline documentation may differ slightly from that listed in the body of the conservation easement. The numbers here are based on the legal descriptions and survey data; the easement numbers are based on county assessor records and maps which are not ground-truthed or cross-checked with other data.
Exhibit D – Funk Agricultural Protection Conservation Easement Baseline Data

inches is sand. It is variegated but is dominantly dark grayish brown. The depth to sand ranges from 14 to 20 inches. In some areas the surface layer is sandy loam. In other areas the soil has loamy glaciomarine or clayey marine deposits at a depth of 40 to 60 inches, has a substratum of sandy loam, or has 15 to 35 percent pebbles in the substratum. Permeability is moderate in the upper part of the Edmonds soil and very rapid in the substratum. Available water capacity is low. The effective rooting depth is limited by a seasonal high water table, which is at a depth of 1.0 to 2.5 feet from November through April. Runoff usually is very slow, and there is no hazard of erosion. The Woodlyn soil is shallow and poorly drained. It has been artificially drained. It formed in an admixture of loess and volcanic ash over glacial outwash. Typically, the surface layer is dark brown loam 9 inches thick. The subsurface layer is dark grayish brown and grayish brown loam 3 inches thick. The upper 5 inches of the subsoil is a dark grayish brown, mottled, indurated hardpan that breaks to loamy sand. The lower 8 inches is a dark brown, mottled, weakly cemented hardpan that breaks to loamy sand. The substratum to a depth of 60 inches is coarse sand. It is variegated but is dominantly brown and olive gray. Depth to the hardpan ranges from 10 to 14 inches. In some areas the surface layer is sandy loam. In other areas the soil has loamy glaciomarine or clayey marine deposits at a depth of 40 to 60 inches, has a substratum of sandy loam, has 15 to 35 percent pebbles in the substratum, or has the hardpan at a depth of 14 to 24 inches. Permeability is moderate in the upper part of the Woodlyn soil, very slow in the hardpan, and very rapid in the loose sand. Available water capacity is low. The effective rooting depth is limited by a seasonal high water table, which is at a depth of 1.0 to 2.5 feet from November through April. Runoff is very slow, and there is no hazard of erosion. This unit is used mainly for hay and pasture or as cropland. The included undrained Edmonds and Woodlyn soils are used as woodland. The main limitations in the areas used for hay and pasture are the seasonal high water table, the low soil fertility, and the low available water capacity. The dominant method of drainage in the areas used for hay and pasture is open ditches. In areas where the drainage system is not maintained or in areas that do not have drainage, the water table limits the use of this unit to grasses and shallow-rooted legumes. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition. Grazing when the soils are wet results in compaction of the surface layer and poor tilth. The main limitations in the areas used as cropland are the seasonal high water table, the low soil fertility, and the low available water capacity. The principal crops grown are corn silage and small grain. Because of the inherent low fertility, this unit requires proportionately more fertilizer than most other soils in the survey area to produce similar yields. The hardpan can be ripped and shattered. Ripping and shattering increase the effective rooting depth and improve internal drainage. Returning all crop residue to the soil and including grasses, legumes, or grass-legume mixtures in the cropping sequence help to maintain fertility and tilth. Tile drains and field ditches should be maintained for adequate production on cropland and pasture. Maintaining artificial drainage systems permits fieldwork to be conducted earlier in the spring and increases the yields of perennial crops. Most crops common to the survey area can be grown if the drainage system is adequate. During the growing season, the water table is artificially lowered to a depth of about 3 to 5 feet. In summer, irrigation is required for maximum production. The Edmonds soil is in capability subclass IIIw. The Woodlyn soil is in capability subclass IVw.

54 Fishtrap muck, drained, 0 to 2 percent slopes.
This very deep, very poorly drained soil is in depressions on outwash terraces. It has been artificially drained. It formed in herbaceous and woody organic deposits over glacioluvial deposits. The native vegetation is mainly shrubs, forbs, and trees: Elevation is 50 to 300 feet. The average annual precipitation is about 45 inches, the average annual air temperature is about 50 degrees F, and the average frost-free period is about 170 days.
Typically, the surface layer is very dark grayish brown muck 7 inches thick. The upper 12 inches of the underlying material is very dark brown muck. The lower part to a depth of 60 inches is dark grayish brown and dark gray, mottled sand. In some areas the surface layer is mucky silt loam. In other areas the soil has hemic material in the surface layer, is more than 51 inches deep to the lower part of the underlying material, or is loamy in the lower part of the underlying material. Included in this unit are small areas of Hale and Tromp soils, areas that are ponded, bodies of water, undrained Fishtrap soils, and Fishtrap soils that have slopes of more than 2 percent. Included areas make up about 10 percent of the total acreage. Permeability is moderate in the upper part of the Fishtrap soil and very rapid in the lower part. Available water capacity is high. The effective rooting depth is limited by a seasonal high water table, which is at a depth of 1.5 to 2.5 feet from October through May. Runoff usually is very slow, but the soil may be ponded during the winter. There is no hazard of erosion. This unit is used mainly for hay and pasture or as cropland. The included undrained Fishtrap soils are used as woodland. The main limitation in the areas used for hay and pasture is the seasonal high water table. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition. The wetness limits the choice of plants and the period of cutting or grazing and increases the risk of winterkill. Grazing when the soil is wet results in compaction of the surface layer and poor tillth. The main limitations in the areas used as cropland are the seasonal high water table and the soil acidity. This soil is well suited to most crops commonly grown in the survey area if adequate drainage systems are maintained. The principal crops are potatoes, blueberries, and corn silage. Tile drains and field ditches should be maintained. They permit fieldwork to be conducted earlier in the spring and increase the yields of perennial crops. During the growing season, the water table is artificially lowered to a depth of about 3 to 5 feet. Subsidence is minimized if the water table is maintained directly below the root zone during the growing season and then allowed to return to the surface during the winter. Using regulating structures in open ditches as a means of subirrigation reduces the extent of subsidence. In summer, irrigation is required for maximum production. The main limitations affecting homesite development are the seasonal high water table and the low strength. The wetness can be reduced by building the house on a pad and by installing drainage tile around footings if a suitable outlet is available. If buildings are constructed on this soil, the muck should be excavated or the buildings should be constructed on piles anchored in the mineral soil. The design of buildings and roads can offset the limited ability of the soil to support a load. In shallow excavations special retaining walls may be needed to keep cutbanks from caving. The main limitations on sites for septic tank absorption fields are the seasonal high water table and a poor filtering capacity. Installing the absorption field in fill approved by the health district helps to compensate for these limitations. This map unit is in capability subclass llw.

62-Hale silt loam, drained, 0 to 2 percent slopes.

This very deep, somewhat poorly drained soil is on outwash terraces. It has been artificially drained. It formed in an admixture of loess and volcanic ash over glacial outwash. The native vegetation is mainly trees and shrubs. Elevation is 50 to 300 feet. The average annual precipitation is about 45 inches, the average annual air temperature is about 50 degrees F, and the average frost-free period is about 170 days. Typically, the surface layer is very dark grayish brown silt loam 10 inches thick. The subsoil is about 16 inches of mottled olive gray, grayish brown, dark brown, and strong brown silt loam and loam. The upper 12 inches of the substratum is dark grayish brown loamy fine sand. The lower part to a depth of 60 inches is sand. It is variegated but is dominantly dark grayish brown. The depth to sand or loamy sand ranges from 15 to 30 inches. In some areas the surface layer is loam. In other areas the soil has a substratum of sandy loam, gravelly sandy loam, gravelly sand, or very gravelly sand. Included in this unit are small areas of Birchbay, Lynden, Kickerville, Whitehorn, Everson, Labounty, Fishtrap, Edmonds, and Laxton soils.
undrained Hale soils, and soils that are similar to the Hale soil but have 18 to 35 percent clay in the subsoil or have a hardpan of dense glaciomarine drift at a depth of 40 to 60 inches. Included areas make up about 20 percent of the total acreage.

Permeability is moderate in the upper part of the Hale soil and very rapid in the substratum. Available water capacity is moderate. The effective rooting depth is limited by a seasonal high water table, which is at a depth of 1 to 4 feet from November through April. Runoff usually is very slow, but the soil may be ponded during the winter. There is no hazard of erosion. This unit is used mainly for hay and pasture or as cropland. It also is used as woodland and as a site for homes. The main limitations in the areas used for hay and pasture are the seasonal high water table and the moderate available water capacity. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition. Grazing when the soil is wet results in compaction of the surface layer and poor tilth. The water table limits the use of this unit to grasses unless a drainage system is installed. The wetness limits the choice of plants and the period of cutting or grazing and increases the risk of winterkill. The main limitations in the areas used as cropland are the seasonal highwater table and the moderate available water capacity. The principal crops are small grain and corn silage. This unit is well suited to most crops commonly grown in the survey area if adequate drainage systems are maintained. During the growing season, the water table is artificially lowered to a depth of about 3 to 5 feet. Tile drains and field ditches should be maintained. They permit fieldwork to be conducted earlier in the spring and increase the yields of perennial crops. In summer, irrigation is required for maximum production.

The main limitation affecting homeste development is the seasonal high water table. The wetness can be reduced by building the house on a pad and by installing drainage tile around footings if a suitable outlet is available. In shallow excavations special retainer walls may be needed to keep cutbanks from caving. The main limitations on sites for septic tank absorption fields are the seasonal high water table and a poor filtering capacity in the substratum. Installing absorption lines that are longer than normal helps to overcome these limitations.

This map unit is in capability subclass IIw,

99 Lynden sandy loam, 0 to 3 percent slopes.
This very deep, well-drained soil is on outwash terraces. It formed in loess and volcanic ash over glacial outwash. The native vegetation is mainly conifers and shrubs. Elevation is 50 to 300 feet. The average annual precipitation is about 45 inches, the average annual air temperature is about 50 degrees F, and the average frost-free period is about 170 days. Typically, the surface layer is dark brown sandy loam 8 inches thick. The subsoil is dark brown sandy loam 10 inches thick. The substratum is variegated sand. The upper 12 inches is dominantly very dark grayish brown, and the lower part to a depth of 60 inches is dominantly dark grayish brown. The depth to sand ranges from 14 to 24 inches. In some areas the surface layer is loam. In other areas the soil has 15 to 25 percent pebbles in the substratum. In some places the lower part of the subsoil, the substratum, or both are weakly cemented, mottled, or both. In other places the combined thickness of the surface layer and subsoil is 24 to 36 inches or 8 to 14 inches. Included in this unit are small areas of Hale, Tromp, and Lynnwood soils and small areas of Lynden soils that have slopes of more than 3 percent included areas make up about 10 percent of the total acreage. Permeability is moderately rapid in the upper part of the Lynden soil and very rapid in the substratum. Available water capacity is moderate. The effective rooting depth is 60 inches. Runoff is very slow, and there is no hazard of water erosion. This unit is used mainly for hay and pasture, as cropland, or as a site for homes. It also is used as woodland. The main limitation in the areas used for hay and pasture is the moderate available water capacity. The main limitations in the areas used as cropland are the moderate available water capacity and the hazard of erosion. The principal crops are raspberries, carrots, and corn silage. Moisture retention can be improved by mulching, rotating legumes with grain, and leaving residue on slopes. Drip irrigation is the most suitable method of applying water for crop production. In summer, irrigation is required for maximum production.
Douglas fir is the main woodland species. Among the trees of limited extent are western hemlock and red alder. The common understory plants are western swordfern, salal, Oregon grape, vine maple, western brackenfern, and trailing blackberry. The use of wheeled and tracked equipment during periods when the soil is wet causes excessive rutting. Using low-pressure ground equipment can minimize damage to the soil. Unsurfaced roads are soft when moist and are subject to deep rutting during rainy periods. This unit is suited to homesite development. It has few limitations. In shallow excavations special retainer walls may be needed to keep cutbanks from caving.
This map unit is in capability subclass IIIc.

100-Lynden sandy loam, 3 to 8 percent slopes.
This very deep, well-drained soil is on outwash terraces. It formed in loess and volcanic ash over glacial outwash. The native vegetation is mainly conifers and shrubs. Elevation is 50 to 300 feet. The average annual precipitation is about 45 inches, the average annual air temperature is about 50 degrees F, and the average frost-free period is about 170 days. Typically, the surface layer is dark brown sandy loam 8 inches thick. The subsoil is dark brown sandy loam 10 inches thick. The substratum is variegated sand. The upper 12 inches is dominantly very dark grayish brown, and the lower part to a depth of 60 inches is dominantly dark grayish brown. The depth to sand ranges from 14 to 24 inches. In some areas the surface layer is loam. In other areas the soil has 15 to 25 percent pebbles in the substratum. In some places the lower part of the subsoil, the substratum, or both are weakly cemented, mottled, or both. In other places the combined thickness of the surface layer and subsoil is 24 to 36 inches or 8 to 14 inches. Permeability is moderately rapid in the upper part of the Lynden soil and very rapid in the substratum. Available water capacity is moderate. The effective rooting depth is 60 inches. Runoff is slow, and the hazard of water erosion is slight. This unit is used mainly for hay and pasture. as cropland, or as woodland. It also is used as a site for homes. The main limitation in the areas used for hay and pasture is the moderate available water capacity. The main limitations in the areas used as cropland are the moderate available water capacity and the hazard of erosion. The principal crops are raspberries, carrots, and corn silage. Moisture retention can be improved by mulching, rotating legumes with grain, and leaving residue on slopes. Drip irrigation is the most suitable method of applying water for crop production. In summer, irrigation is required for maximum production. The use of wheeled and tracked equipment during periods when the soil is wet causes excessive rutting. Using low-pressure ground equipment can minimize damage to the soil. Unsurfaced roads are soft when wet and are subject to deep rutting during rainy periods. This unit is suited to homesite development. It has few limitations. In shallow excavations special retainer walls may be needed to keep cutbanks from caving. The main limitation on sites for septic tank absorption fields is a poor filtering capacity in the substratum. Installing the absorption field in fill approved by the health district helps to compensate for this limitation.
This map unit is in capability subclass IIIe.

165- Tromp loam, 0 to 2 percent slopes.
This very deep, moderately well drained soil is on outwash terraces. It formed in a mixture of loess and volcanic ash over glacial outwash. The native vegetation is mainly conifers and shrubs. Elevation is 50 to 300 feet. The average annual precipitation is about 45 inches, the average annual air temperature is about 50 degrees F, and the average frost free period is about 170 days. Typically, the surface layer is dark brown loam 11 inches thick. The upper 9 inches of the subsoil is dark brown and strong brown loam. The lower 6 inches is weakly cemented, dark yellowish brown, mottled sandy loam. The upper 20 inches of the substratum is weakly cemented, olive brown, mottled sand. The lower part to a depth of 60 inches is grayish brown and dark grayish brown, mottled sand. The depth to sand ranges from 14 to 30 inches. In some areas the surface layer is sandy loam or silt loam. In other areas the soil is not cemented. Is sandy loam in the upper part of
the substratum, has 15 to 35 percent pebbles in the substratum, has loamy glaciomarine or glacial till at a depth of 40 to 60 inches, or is 10 to 14 inches deep to sand. Included in this unit are small areas of Hale, Yelm, Edmonds, Lynden, Birchbay, and Whatcom soils and small areas of Tromp soils that are subject to occasional flooding. Included areas make up about 15 percent of the total acreage. Permeability is moderate in the upper part of the Tromp soil and very rapid in the substratum. Available water capacity is high. The effective rooting depth is limited by a seasonal high water table, which is at a depth of 1.5 to 2.5 feet from November through April. Runoff is very slow, and there is no hazard of erosion. This unit is used mainly for hay and pasture, as cropland, or as woodland. It also is used as a site for homes. The main limitation in the areas used for hay and pasture is the seasonal high water table. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition. This unit has few limitations in the areas used for cropland. The principal crops are raspberries, strawberries, and sweet corn. In summer, irrigation is required for maximum production. The main limitation affecting homeste development is the seasonal high water table. The main limitations on sites for septic tank absorption fields are the seasonal high water table and a poor filtering capacity in the substratum. Installing the absorption field in fill approved by the health district helps to overcome these limitations.

This map unit is in capability subclass llw.

Vegetation
The property is primarily vegetated with raspberry production. There is a significant portion of the property in CREP or forested (approximately 5.12 acres). There is approximately 6.1 acres of pasture north of the road that bisects the property and south of the South Fork of Dakota Creek.

Water Resources
The South Fork of Dakota Creek flows from the east to the west in the northern portion of the property. A tributary stream of the South Fork of Dakota Creek flows southeast to northwest over the very southwest corner portion of the property. Wetland areas of the property are indicated as Priority Habitat by Washington Department of Fish and Game.

There is no well associated with the easement property. The well for the home is behind the shed located west of the house.

Biological Resources

Fish Species of Special Concern

According to Washington Department of Fish and Game Priority Habitat and Species Report there are the following fish species of concern utilizing the creeks on the property: Chinook, Chum, Coast Resident Cutthroat, Coho, Steelhead Trout, and Steelhead salmonid species.

Wildlife Species of Special Concern

There are no wildlife species of concern on the property. Canadian Geese were observed flying South during this site visit.
CONCLUDING REMARKS:
This baseline data inventory is an accurate representation of the 38 54 acre Funk Farm at the time of the conveyance of the Conservation Easement to Whatcom Land Trust and Whatcom County and the United States of America.

This is a business record of Whatcom Land Trust prepared by Whatcom Land Trust in its normal course of business.

DATE OF SITE VISIT: OCTOBER 10, 2012 TIME SPENT ON SITE: 2 HOURS

PERSONS PRESENT: Eric Carabba (WLT), Nick Saling (WLT) Thomas Funk (Owner)

SIGNATURE OF WLT REPRESENTATIVE ________________________________
PRINT NAME: Nick Saling DATE: 12/10/12

SIGNATURE OF PROPERTY OWNER: ________________________________
PRINT NAME: Thomas R Funk DATE: 12/24/12

SIGNATURE OF PROPERTY OWNER: ________________________________
PRINT NAME: R. Dave Funk DATE: 12/24/12

ATTACHMENTS:
A. Maps
   1. Vicinity Map
   2. USGS Topographic Map 1:24,000
   3. Parcel Map (Whatcom County Assessor)
   4. Soil Map (2010 Air Photo)
   5. Current Air Photo Maps (2011 NAIP)
   7. Farmstead Impervious Surface (2010 Air Photo)
   8. Photo Point Map (2010 Air Photo)

B. Photo Points List and Photographs
   Provide photographs of specific photo points on the property that can be replicated during annual monitoring.
Funk Ag PDR Conservation Easement
Township 40 North, Range 1 East, Section 24
Approximately 39.17 acres

Driving Directions from Bellingham:
Travel I-5 North (16 miles) to Birch Bay - Lynden Road.
Take Exit 270 and travel east on Birch Bay - Lynden Rd (1.5 miles) to Stein Road.
Turn left on Stein Road, travel north 0.8 mile
Farmstead is on left (west) side of road.

Address: 8421 Stein Rd, Custer, WA

Legend:
- Subject Property
- AG PDR
- Conservation Easement
- Land Trust Ownership

WHATCOM LAND TRUST
Data: Hillshade-10m-DEM-USGS
Roads-Whatcom County, Water - DNR
Parcels - 2012 Whatcom County Assessor
Wet Property and Easements - 2012 Parcels
September 2012
Funk Ag PDR Conservation Easement

Legend

- Subject Property
- Conservation Easement
- WLT Ownership

Township 40 North, Range 1 East, Section 24 W.M.

1:24,000

NOTES:
- No Warranty for Accuracy of Data
- BOUNDARIES ARE APPROXIMATE!
- Data Sources: Topo Base Map - USGS
- 2012 Tax Parcels - Whatcom County Assessor
- Road Labels - WCDPS Sections and Water - DNR

September 2012 WLT
Funk Ag PDR
Conservation Easement

Legend

☐ NRCS Soils
☐ Subject Property

Township 40 North, Range 1 East, Section 24 W.M.

1:3,600

Data Sources:
- Soils - NRCS
- 2010 Air Photo - Whatcom County
- 2012 Tax Parcels - Whatcom County Assessor
- Road Labels - WCPDS Sections and Water - DNR

October 2012 WLT
Funk Ag PDR Conservation Easement
Township 40 North, Range 1 East, Section 24 W.M.

Legend
- Subject Property
- Conservation Easement

Scale: 1:12,000

Data Sources:
- 2008 Air Photo - WC
- 2012 Tax Parcels - Whatcom County Assessor
- Road Labels - WCPDS Sections and Water - DNR
- September 2012 WLT

No Warranty for Accuracy of Data! BOUNDARIES ARE APPROXIMATE!
EXHIBIT E: Water Rights Documentation

CERTIFICATE RECORD NO. 20-

State of Washington County of Klickitat

CERTIFICATE OF SURFACE WATER RIGHT

this is to certify that the State of Washington, of the
of the waters of Ruby Creek, a tributary of the
with point or points of diversion within the

sec. 23 - Twp. 19 N. R. 2 E, W. M. under and subject to provisions contained in

Permit No. 5728 issued by the State Supervisor of Water Resources, and

that said right to the use of said water has been perfected in accordance with the laws of Washington,

and is hereby confirmed by the State Supervisor of Water Resources of Washington and entered as

herein described as appears in Volume 10 on Page 699, on the 15th day of March, 1982,

that the purposes listed hereunder. For the purpose of the descriptions of 2.4 acres,

A description of the lands under such right to which the water right is appurtenant, and the

place where such water is put to beneficial use, is as follows:

2/3 of 2/3 of Sec. 36, Twp. 29 N., R. 2 E, W. M.

The right to the use of the water specified hereby confirmed as restricted to the lands or place of

use herein described, except as provided in Sections 6 and 7, Chapter 442, Laws of 1929.

WITNESS the seal and signature of the State Supervisor of Water Resources above subscribed.

[Signature]

State Supervisor of Water Resources

[Date]

E-1
WATER RIGHT CLAIM

1. NAME: Thomas R. Funk

ADDRESS: 8421 Stein Rd.

Custer, Wash. ZIP CODE: 98240

2. SOURCE FROM WHICH THE RIGHT TO TAKE AND MAKE USE OF WATER IS CLAIMED: Ground Water

W.R.I.A. #: 4

A. IF GROUND WATER, THE SOURCE IS: a well

B. IF SURFACE WATER, THE SOURCE IS:

3. THE QUANTITIES OF WATER AND TIMES OF USE CLAIMED:

A. QUANTITY OF WATER CLAIMED: 6.5 ac. ft. (CUBIC FEET) PRESENTLY USED: 6.5 ac. ft.

B. ANNUAL QUANTITY CLAIMED: 2 ac. ft. (ACRE FEET) PRESENTLY USED: 2 ac. ft.

C. IF FOR IRRIGATION, ACRES CLAIMED: 1.5 present irrigation

D. TIMES DURING EACH YEAR WHEN WATER IS USED: continuously

4. DATE OF FIRST PUTTING WATER TO USE: MONTH: 6, YEAR: 1966

5. LOCATION OF THE POINT(S) OF DIVERSION/WITHDRAWAL: 500 FEET North AND 200 FEET West FROM THE South East CORNER OF SECTION 24

BEING WITHIN NE 1/4, NW 1/4 OF SECTION 24, T. 40 N., R. 1 E. (EWD) W.M.

6. LEGAL DESCRIPTION OF LANDS ON WHICH THE WATER IS USED:

NE quarter of NW 1/4 quarter of section 24,
Township 40 N, Range 1 East, 3 WM

COUNTY: Whatcom

7. PURPOSE(S) FOR WHICH WATER IS USED: Domestic Supply

8. THE LEGAL DOCTRINE(S) UPON WHICH THE RIGHT OF CLAIM IS BASED: Appropriation

DO NOT USE THIS SPACE

HEREBY DECLARE THAT ABOVE INFORMATION IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

X Thomas R. Funk

DATE: 6/28/1966

If claim filed by designated representative, print or type, full name and mailing address of agent below.

Add additional information on back or with file.
EXHIBIT F: Subordination Agreement Example

When recorded return to:


Grantor: __________________________
Grantee: __________________________

Legal Description
Abbreviated form: __________________________
Additional legal at Exhibit A.

Assessor’s Tax Parcel Number: ____________

Reference number(s) of related/assigned/released documents: ____________
Reference(s) to document(s) appears on page(s) ________

SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.

The undersigned subordinator agrees as follows:

1. _____________ ("Subordinator") is the owner and holder of a mortgage dated ____________, which was recorded under Auditor's File No. ____________, records of __________ County;

2. _____________ ("Easement Holder") is the holder of a conservation easement dated ____________, 20__, executed by [("Owner") or ("Owners")], which will be recorded concurrently with this Subordination Agreement;

F-1
3. [husband and wife.] ["Owner") or ["Owners"] [is the owner or are the owners] of all the real property described in the conservation easement identified above in Paragraph 2.

4. In consideration of benefits to Subordinator from ["Owner") or ["Owners"]], receipt and sufficiency of which is hereby acknowledged, the Subordinator does hereby unconditionally subordinate the lien of the mortgage identified above in Paragraph 1 to the conservation easement identified above in Paragraph 2.

5. This Agreement shall be the whole and only agreement between the parties hereto with regard to the subordination of the lien or charge of the mortgage first above mentioned to the conservation easement in favor of Easement Holder above referred to and shall supersede and cancel any prior agreements as to such, or any subordination including, but not limited to, those provisions, if any, contained in the mortgage first above mentioned, which provided for the subordination of the lien or charge thereof to a mortgage to be thereafter executed.

6. The heirs, administrators, assigns and successors in interest of the Subordinator shall be bound by this agreement. Where the word mortgage appears herein it shall also be considered as deed of trust, and gender and number of pronouns considered to conform to undersigned.

    Executed this ________ day of __________, 20__.

    SUBORDINATOR

    ____________________________

    (Name)

    STATE OF WASHINGTON )

    ) ss.

    COUNTY OF ________

    I certify that I know or have satisfactory evidence that _________________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the ____________________________ of _________________________ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

    Dated: ________________________

    SUBORDINATOR

    ____________________________

    (Name)
(Use this space for notarial stamp/seal)

Notary Public
Print Name __________________________
My commission expires __________________
Supplemental Budget Request

Administrative Services

Expenditure Type: One-Time

Facilities Management

Fund 326
Originator: Michael Russell

Cost Center
Year 1 2013
Add’l FTE □ Add’l Space □ Priority 1

Supp’l ID # 1551

Name of Request: Security Improvements for Central Plaza Bldg

Department Head Signature (Required on Hard Copy Submission)

X

Date 7/11/13

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>2910.1000</td>
<td>Fund Balance</td>
<td>($30,000)</td>
</tr>
<tr>
<td>7350</td>
<td>Buildings &amp; Structures</td>
<td>$30,000</td>
</tr>
</tbody>
</table>

Request Total $0

1a. Description of request:
This request is for security improvement for the Public Defender’s reception area. The addition of a bullet proof wall, door, bullet proof glass pass-through window and prox-doors will improve the security within the reception area.

1b. Primary customers:
Public Defender Staff

2. Problem to be solved:
There are presently no restrictions or barriers to protect the occupants of this building. These improvements will create a safety zone for the receptionist and utilize the prox system to access the rest of the building. This restricted access will allow the receptionist to buzz clients into the office area and at the same time allow employees to access the office freely with their prox-badges.

3a. Options / Advantages:
There are no other options to make this area more secure. The advantage of this proposed work is to provide a safer working environment for the Public Defender’s Office and its clients.

3b. Cost savings:
There are no alternatives for this work, therefore there are no cost savings associated with this work.

4a. Outcomes:
When completed these improvements will provide a safer work environment for the Public Defender’s Office and its clients.

4b. Measures:
When this work is complete it will provide a safer working environment for the Public Defender’s Office and its clients.

5a. Other Departments/Agencies:
Facilities will work with the Public Defender’s office to complete this project.

5b. Name the person in charge of implementation and what they are responsible for:
Michael Russell

6. Funding Source:
REET 1

Wednesday, July 10, 2013

Rpt: Rpt Suppl Regular
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws, County Executive
Subject: Budget Supplemental for EDI Program funding
Date: July 10, 2013

At the July 9th Council meeting, County Council approved the EDI Board’s recommendation to fund a grant and loan from the EDI Program for the City of Nooksack’s Water Treatment Plant upgrade. Accordingly, we are submitting a budget supplemental to accommodate this request.

The $780,000 will be provided from the Public Utilities Improvement Fund, through an Interlocal Loan and Grant agreement with the City of Nooksack, as follows; $260,000 as a grant, and $520,000 as a 20-year term loan.

Upon your approval of this request, we will submit for your approval the Interlocal Loan and Grant Agreement with the City of Nooksack.

If you have any questions on this matter, please feel free to contact me at 676-6717.
Supplemental Budget Request

Executive

Supp'l ID # 1563  Fund 332  Cost Center 332226  Originator: Suzanne Mildner

Expenditure Type: One-Time  Year 1 2013  Add'l FTE  Add'l Space  Priority 1

Name of Request: Nooksack Water Treatment Upgrade EDI

X

Department Head Signature (Required on Hard Copy Submission)  Date 7/11/10

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2910.1000</td>
<td>Fund Balance</td>
<td>($780,000)</td>
</tr>
<tr>
<td></td>
<td>7220</td>
<td>Intergov Subsidies</td>
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</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
Supplemental budget for an EDI Program grant and loan agreement with the City of Nooksack in support of the Water Treatment Plant upgrade.

1b. Primary customers:
Residents of Cities of Nooksack and Everson

2. Problem to be solved:
The current wastewater treatment plant in Nooksack has reached its capacity. This proposed WWTP upgrade will make additional capacity available to new commercial and industrial businesses wanting to locate within Nooksack; it will also support expansion of existing businesses. The EDI Board made a recommendation to fund this project, and the Council has approved the recommendation. This request provides the loan and grant funding to City of Nooksack.

3a. Options / Advantages:
N/A

3b. Cost savings:
N/A

4a. Outcomes:
Increased capacity for the WWTP which will result in an updated NPDES permit issued by the Department of Ecology once the project has been completed. Completion of the project is estimated to be Fall of 2014.

4b. Measures:
Written report from the City of Nooksack on project completion

5a. Other Departments/Agencies:
None

5b. Name the person in charge of implementation and what they are responsible for:

6. Funding Source:
Public Utilities Improvement Fund
TITLE OF DOCUMENT:
Text amendment to WCC 21.05.039 Phasing, expiration and time extension for preliminary long subdivision approval.

ATTACHMENTS:
1. Staff Memo
2. Proposed Ordinance and Exhibits
3. Planning Commission Findings of Fact and Reasons for Action
4. Planning Commission minutes

Other background information is on file at the Council office.

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) NO

Should Clerk schedule a hearing? ( ) Yes (X) 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.)

Proposal for a text amendment to WCC 21.05.039 to allow for long subdivisions to gain final approval consistent with the changes in RCW 58.17.140.

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

TO: Jack Louws, The Honorable Whatcom County Executive
   The Honorable Whatcom County Council

FROM: Amy Keenan, AICP

THROUGH: J.E. "Sam" Ryan, Director

DATE: July 8, 2013

SUBJECT: Text Amendment to WCC 21.05.039 (PLN2013-00011)

Planning and Development Services (PDS) is proposing an amendment to WCC 21.05.039 Phasing, expiration and time extension to allow additional time for preliminarily approved long subdivisions to reach final approval.

Currently WCC 21.05.039 states that a final long subdivision must be submitted within five years of preliminary approval, however, the Washington State Legislature recently amended state RCW 58.17.140 to allow additional time (five, seven, or ten years) depending up preliminary approval date.

The proposed amendment will allow PDS to grant additional time for preliminary approval consistent with the state RCW allowing predictability and consistency for the development community. PDS is requesting Council consideration of this amendment on August 6, 2013.

Thank you for your consideration of this matter.
July 2, 2013

PROPOSED BY:  
SPONSORED BY:  
INTRODUCTION DATE:  

ORDINANCE NO. _________

Text amendment to WCC 21.05.039 Phasing, expiration and time extension for preliminary long subdivision approval.

WHEREAS, the Planning and Development Services (PDS) staff has brought forward a proposal for a text amendment to WCC 21.05.039 to allow for long subdivisions to gain final approval consistent with the changes in RCW 58.17.140.

WHEREAS, the proposed code amendments have been reviewed under the State Environmental Policy Act (SEPA); and

WHEREAS, In accordance with RCW 36.70A.106 Whatcom County Planning and Development Services notified the Department of Commerce of the proposed code amendments; and

WHEREAS, the Whatcom County Planning Commission held a public hearing on the proposed amendments, with notices published in the Bellingham Herald, and considered all testimony; and

WHEREAS, the Whatcom County Planning Commission forwarded its findings and reasons for action to the County Council; and

WHEREAS, the Whatcom County Council hereby adopts the following findings of fact and conclusions:

FINDINGS

1. The proposal is for a text amendment to the Whatcom County Subdivision Code, Title 21 to allow additional time for submittal of a final plat after preliminary approval consistent with RCW 58.17.140.

2. On April 18, 2013, Jay Inslee, Governor of Washington State approved Substitute House Bill (SHB) 1074 which was passed by both the Washington State House of Representatives and the Senate. SHB 1074 amended the final plat approval dates allowing ten years from preliminary approval to reach final approval if the plat is not subject to shorelines and if preliminary plat approval is on or before December 31, 2007. If preliminary approval was after December 31, 2007, but is before December 31, 2014 the applicant shall have seven years to submit a final subdivision pursuant to SHB 1074.
July 2, 2013

Plats receiving preliminary approval after January 1, 2015 will be subject to
the five year timeframe to reach final plat approval. SHB will be effective on

3. There are several preliminarily approved plats that may benefit from
extension of the timeframes including, but not limited to, the plats of Tall
Cedars, Belmont, Shuksan Highlands Phase 2, and Sunrise Meadows.

4. A State Environmental Policy Act (SEPA) checklist was prepared on May 30,
2013. SEPA review and determination is in process.

5. The proposal was posted on the County website by June 5, 2013.

6. Notice that the proposal had been posted on the County website was sent to
citizen, media and other groups on the County’s e-mail list by June 5, 2013.

7. Notice of the subject amendment was submitted to the Washington State
Department of Commerce on June 4, 2013.

8. Notice of the Planning Commission hearing for the subject amendment was

9. Notice of the Planning Commission hearing for the subject amendment was
posted on the County’s website on June 4, 2013.

10. The Planning Commission held a public hearing on the subject amendment
on June 13, 2013.

In order to approve the text amendment, the County must find that is
consistent with the Growth Management Act. Additionally, the County must
find that the zoning amendment is consistent with and implements the
Whatcom County Comprehensive Plan.

CONCLUSIONS

1. The subject zoning amendment complies with the Growth Management Act.

2. The subject zoning amendment is consistent with and implements the
Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the
Whatcom County Code is hereby amended as shown in Exhibit 1.
July 2, 2013

**BE IT FURTHER ORDAINED** that if any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional; such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**ADOPTED** this ____ day of ________, 20__.

**ATTEST:**

________________________
Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

**APPROVED AS TO FORM:**

________________________
Civil Deputy Prosecutor

Jack Louws, County Executive

(  ) Approved (  ) Denied
Date Signed: __________________
**Exhibit 1**

**21.05.039 Phasing, expiration and time extension for preliminary long subdivision approval.**

(1) Approval of a preliminary subdivision shall expire unless a final plat is submitted in proper form for final plat approval within five years of the date of preliminary subdivision approval.

(1) Except as provided by (a) of this section, a final plat shall be submitted in proper form for final plat approval within seven years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2016.

(a) A final plat shall be submitted in proper form for final plat approval within ten years of the date of preliminary plat approval if this project is not subject to requirements adopted under RCW 90.58 and the date of preliminary plat approval is on or before December 31, 2007.

(2) Extension of Time for Submittal of Final Long Subdivision. The five-year expiration of a preliminary long subdivision approval may be extended under the following provisions:

(a) An applicant files a written request with the subdivision administrator prior to expiration of the five-year expiration period. The request shall state the specific work items, standards, and criteria which have not been completed and the reasons therefor. The request shall also indicate when the work will be completed within the requested period. The subdivision administrator shall review the request and provide a recommendation to the hearing examiner.

(b) The hearing examiner shall have authority to grant one one-year extension subsequent to the original preliminary plat approval.

(c) The one-year extension may be granted if after taking into consideration technical, economic and other matters beyond the control of the applicant the hearing examiner finds that there is reasonable justification for the granting of an extension.

(d) In granting the one-year extension the hearing examiner shall take into consideration such changes in rules, regulations, ordinances, or development standards, or portions thereof, that have occurred since the time the original approval was granted.

(e) The hearing examiner may condition the extension so as to require compliance with any such subsequently adopted rules, regulations, ordinances, or development standards, or portion thereof, that are deemed necessary to protect the public health, safety and welfare.
WHATCOM COUNTY
PLANNING COMMISSION

Text amendment to WCC 21.05.039 Phasing, expiration and time extension for preliminary long subdivision approval.

FINDINGS OF FACT AND REASONS FOR ACTION

1. The proposal is for a text amendment to the Whatcom County Subdivision Code, Title 21 to allow additional time for submittal of a final plat after preliminary approval consistent with RCW 58.17.140.

2. On April 18, 2013, Jay Inslee, Governor of Washington State approved Substitute House Bill (SHB) 1074 which was passed by both the Washington State House of Representatives and the Senate. SHB 1074 amended the final plat approval dates allowing ten years from preliminary approval to reach final approval if the plat is not subject to shorelines and if preliminary plat approval is on or before December 31, 2007. If preliminary approval was after December 31, 2007, but is before December 31, 2014 the applicant shall have seven years to submit a final subdivision pursuant to SHB 1074. Plats receiving preliminary approval after January 1, 2015 will be subject to the five year timeframe to reach final plat approval. SHB will be effective on July 28, 2013.

3. There are several preliminarily approved plats that may benefit from extension of the timeframes including, but not limited to, the plats of Tall Cedars, Belmont, Shuksan Highlands Phase 2, and Sunrise Meadows.

4. A State Environmental Policy Act (SEPA) checklist was prepared on May 30, 2013. SEPA review and determination is in process.

5. The proposal was posted on the County website by June 5, 2013.

6. Notice that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list by June 5, 2013.

7. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 4, 2013.

8. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on May 31, 2013.

9. Notice of the Planning Commission hearing for the subject amendment was
posted on the County’s website on June 4, 2013.


11. In order to approve the text amendment, the County must find that is consistent with the Growth Management Act. Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

CONCLUSION

1. The subject zoning amendment complies with the Growth Management Act.

2. The subject zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

RECOMMENDATION

Based upon the above findings and conclusions, the Whatcom County Planning Commission recommends the following:

1. Approval of Exhibit 1, amendments to Whatcom County Title 21

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair
Sam Ryan, Secretary

Date 7-9-13

Commissioners present at the June 13, 2013 meeting when the vote was taken: Ben Elenbaas, Rod Erickson, Michelle Luke, David Onkels, Jeff Rainey, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 7, Nays: 0, Abstain: 0, Absent: 2. Motion carried to adopt the above amendments.
Regular Meeting

Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, Michelle Luke, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Michelle Luke, Ben Elenbaas, Jerry Vekved, Rod Erickson, David Onkels, Jeff Rainey, Mary Beth Teigrob,
Absent: Ken Bell, Gary Honcoop

Staff Present: Mark Personius, Peter Gill, Amy Keenan, Becky Boxx

Department Update
Mark updated the Commission on the following:
- The Growth Management Hearings Board decision regarding water resources and transportation planning. More detailed information will be presented at the next meeting.
- An overview of the Water Symposium held in May.
- Interviews were held regarding a consultant for the Purchase of Development Rights program.
- Review of the upcoming Planning Commission schedule.
- Review of items before the County Council.
- PDS staff updates.

Open Session for Public Comment
Don Hickey, Whatcom County: Addressed the Commission regarding property his mother-in-law owns on Yew Street Road. The family would like to separate the property and put another home on it for family members. Because of the zoning this is not possible. He has spoken with PDS, the County Executive, County Council and the City of Bellingham to try and assess his options. He asked the Commission to address this area in the 2016 Comprehensive Plan update.

Commissioner Comments
Commissioner Rainey stated he read an article in John Deere Magazine regarding stormwater issues in Sweden. A lot of the pollution in the Baltic Sea is from agricultural runoff. He feels some of the issues could be solved using science instead of taking people’s property rights away. He has read that phosphorous isn’t that hard to deal with. It can easily be neutralized and is easier to deal with than nitrates.

The Commission further discussed the water symposium and water issues.

Approval of Minutes
April 25, 2013: Commissioner Onkels moved to approve as written. Commissioner Erickson seconded. The motion carried.
Regular Meeting

May 9, 2013: Commissioner Onkels moved to approve as written. Commissioner Vekved seconded. The motion carried.

May 23, 2013: Commissioner Teigrob moved to approve as written. Commissioner Erickson seconded. The motion carried.

2016 Comprehensive Plan Update and Urban Growth Area Review.

Mark gave an overview of the process to date. On June 5, 2013 the second quarterly meeting was held with elected officials and city/county staffs in the County. This was an opportunity to get updates on what is going on and address concerns and issues. Tribal issues were discussed at the meeting.

The Consultant, Berk & Associates, has put together a draft of the population projections and is working on the employment projections.

The projections will probably be brought to the Commission, for consideration, in late fall or early winter with a recommendation expected early next year.

Public Hearing

File #2013-00011: Proposed changes to WCC 21.05.039 to allow additional time for long subdivision approval consistent with RCW 58.17.140 and SHB 1074.

Amy Keenan presented the staff report. This proposed amendment is being brought forward in order to be consistent with State law.

The hearing was opened to the public. There was no public testimony. The hearing was closed to the public.

Commissioner Elenbaas asked what the motivation was for the State to extend the timeline.

Staff stated is was because of the economic conditions in the State the past several years.

Commissioner Rainey commented on Goal 2H stated in the staff report, which states: “Preserve private property rights while recognizing the importance of the rights of the community, including protecting the natural environment and conserving resources.” He commented that an overarching statement such as this is what has got us into this water predicament. The Commission agreed they would like the verbage deleted and voted to have this reviewed during the 2016 Comprehensive Plan update.

Commissioner Onkels noted that Proposed Conclusion 2 should read: The subject zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan. The Commission voted in favor of this change.

Commissioner Teigrob moved to recommend approval of the staff report as amended. Commissioner Erickson seconded. Roll Call Vote: Ayes – Elenbaas,
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
June 13, 2013

Regular Meeting

Erikson, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Bell, Honcoop. The motion carried.

Public Hearing

File #2011-00015: Text amendments to Whatcom County Comprehensive Plan, Land Use Chapter policies relating to water quality and stormwater management in the Lake Whatcom Watershed. The amendment adds references to the proposed WCC 20.51 in Policy 2DD – 2.C. This amendment is necessary to maintain consistency between the Comprehensive Plan and implementing development regulations.

Peter Gill presented the staff report. Because the development regulations are now referenced in the Comprehensive Plan this amendment is necessary for consistency.

The hearing was opened to the public. There was no public comment. The hearing was closed to the public.

The Commission voted to reword paragraph one of the Reason for Request to: The Washington State Growth Management Hearings Board, in its January 4, 2013 Compliance Order (GMHB No. 11-2-0010c), found that Whatcom County lacked measures to adequately protect the water quality in Lake Whatcom. A new chapter of the Zoning code, (proposed) WCC 20.51, includes water quality measures aimed at reducing the amount or concentration of nutrients and pathogens from entering Lake Whatcom inflow.

The Commission voted to reword Analysis of the Proposed Amendment, B. paragraph 2 to read: Lake Whatcom has been placed on the Federal Clean Water Act 303(d) list for low dissolved oxygen and fecal coliform. The 2013 Lake Whatcom Watershed Total Phosphorus and Bacteria Total Maximum Daily Loads (TMDL) provides estimates of phosphorus loads into the lake, and through modeling, determined development scenarios to meet water quality standards. Low dissolved oxygen levels has have been connected to phosphorus loading resulting in from sediments entering into Lake Whatcom through various means to include land disturbance activities such as development. To comply with the Federal Clean Water Act, Whatcom County must develop a response to address development through the local regulatory process.

Commissioner Erickson moved to recommend approval of the staff report as amended. Commissioner Teigrob seconded. Roll Call Vote: Ayes – Elenbaas, Erickson, Luke, Onkels, Rainey, Teigrob, Vekved; Nays – 0; Abstain – 0; Absent – Bell, Honcoop. The motion carried.

The meeting was adjourned at 7:44 p.m.

Minutes prepared by B. Boxx.
RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
June 13, 2013

Regular Meeting

1 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

Michelle Luke, Chair
J.E. "Sam" Ryan, Secretary
**TITLE OF DOCUMENT:** Birch Bay NPDES Stormwater Development Regulations

**ATTACHMENTS:** Memo
- Ordinance
  - Exhibit A – Text Amendments to WCC 20.80.630, Stormwater and Drainage
  - Exhibit B – Planning Commission recommended Findings and Reason for Action
  - Exhibit C – Map of Birch Bay NPDES area

**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.)

Introduction of an ordinance amending the Whatcom County Zoning Code Title 20 – Section 20.80.630, Stormwater And Drainage, relating to water quality and stormwater management in the Birch Bay Urban Growth Area.
Memorandum

TO: Whatcom County Council

THROUGH: Mark Personius, Long Range Planning Manager

FROM: Peter Gill, Senior Planner

DATE: July 23, 2013

SUBJECT: Introduction of Whatcom County Zoning Code Text Amendment related to the Birch Bay NPDES Stormwater Requirements

The State Department of Ecology has included the Birch Bay Urban Growth Area in Whatcom County’s National Pollution Discharge Elimination System (NPDES) Permit beginning August 1, 2013.


Without action the 2012 Manual will go into effect within the Birch Bay UGA on August 1, 2013.

This proposed text amendment maintains the current Stormwater Special District standards, Water Resource Management Areas, and implement the 2005 Stormwater Management Manual for Western Washington for larger projects.

Link to 2013 Western Washington Phase II Municipal Stormwater Permit
www.ecy.wa.gov/programs/wq/stormwater/municipal/phaseIIww/1YR/1YRWAPhaseIIPermit.pdf

In your packet you will find:

Ordinance to introduce Exhibit A

- Exhibit A – Text Amendments to WCC 20.80.630, Stormwater and Drainage
- Exhibit B – Planning Commission recommended Findings and Reason for Action
- Exhibit C – Map of Birch Bay NPDES area.
AMENDING THE WHATCOM COUNTY ZONING CODE TITLE 20 – SECTION 20.80.630, STORMWATER AND DRAINAGE, relating to water quality and stormwater management in the Birch Bay UGA.

WHEREAS, The State Department of Ecology has included the Birch Bay Urban Growth Area (UGA) in Whatcom County’s National Pollution Discharge Elimination System (NPDES) Permit beginning August 1, 2013; and

WHEREAS, Whatcom County zoning code, Title 20, Chapter 20.80, Section .630 requires use of the “most current edition[s]” of the manual, the 2012 WA State Stormwater Management Manual for Western Washington; and

WHEREAS, the 2013 Western Washington NPDES Phase II Municipal Stormwater Permit does not require use of the 2012 WA State Stormwater Management Manual for Western Washington until December 31, 2016; and

WHEREAS, Whatcom County will be implementing all other applicable aspects of the NPDES Phase II permit in Birch Bay on August 1, 2013. These aspects include public education and outreach, public involvement and participation, illicit discharge detection and elimination, and operations and maintenance of infrastructure; and

WHEREAS, this proposed text amendment maintains the current Stormwater Special District standards, Water Resource Management Areas; and

WHEREAS, existing Whatcom County stormwater requirements and thresholds meet or exceed the 2005 Washington State Department of Ecology Stormwater Management Manual; and

WHEREAS, this proposed text amendment implements the 2005 Stormwater Management Manual for Western Washington for larger development projects; and

WHEREAS, these development regulations preserve the hydrology and protect water quality through on-site stormwater facilities for individual lots, protected native growth areas, temporary erosion and sediment control, phased clearing, and soil stabilization measures; and

WHEREAS, the proposed changes were discussed at the Birch Bay Watershed and Aquatic Resources Management District Advisory Committee on June 19, 2013; and
WHEREAS, the Whatcom County Planning Commission held a public hearing on June 27, 2013 on the proposed zoning text amendment, and public comments, questions and concerns received were recorded in the public record.

WHEREAS, the Whatcom County Council finds the amendments to be in the best interest of the public health, safety and welfare; and

WHEREAS, the Council makes the following findings of fact to justify its actions as required by RCW 36.70.795;

1. The Planning Commission recommended approval of the proposed amendments to Whatcom County Council on June 27, 2013.

2. The State Department of Ecology has included the Birch Bay Urban Growth Area (UGA) in Whatcom County’s National Pollution Discharge Elimination System (NPDES) Permit beginning August 1, 2013.

3. Development within the 2013 Western Washington Phase II Municipal Stormwater Permit area must adopt a stormwater program for new development, redevelopment, and construction sites that meets the minimum requirements, thresholds, and definitions in Appendix I or adopt the WA State Stormwater Management Manual for Western Washington.


6. Current stormwater regulations in Birch Bay include WCC 20.80.735-Water Resource Special Management Area, and WCC 20.80.630 – .636, Stormwater and Drainage. Development standards are found in Whatcom County Development Regulations Chapter 2, Section 221.

7. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on June 24, 2013.

8. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on June 14, 2013.

9. Notice of the Planning Commission hearing for the subject amendment was posted on the County’s website on June 20, 2013.

10. The Planning Commission held a public hearing on the subject amendment on June 27, 2013.
PROPOSED CONCLUSIONS

1. The zoning text amendments are consistent with the processing requirements of WCC 20.90.050 and serve the public interest.

2. The amendments will not create an undue burden under section 1.11 of the County Charter.

3. The proposed amendments are consistent with the Comprehensive Plan, the Washington State Growth Management Act, and are in the public interest.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Whatcom County zoning code (WCC 20.80.630) is hereby amended as shown in Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this ___ day of __________________ 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________
Dana Brown-Davis, Council Clerk

__________________________
Kathy Kershner, Council Chair

APPROVED as to form:

__________________________
Civil Deputy Prosecutor

__________________________
Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: ___________________
20.80.630 Stormwater and drainage.
(1) All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards or the provision addressed herein, as applicable, unless specifically exempted.

(2) No project permit shall be issued prior to meeting the stormwater requirements of this chapter and/or Chapter 2 of the Whatcom County Development Standards. Advisory Note: Certain stormwater discharges to natural receiving waters are subject to state water quality standards and the requirements of the National Pollutant Discharge Elimination System (NPDES). Hydraulic Project Approval (HPA) may also be required if stormwater is discharged to a water body or stream that provides, or could provide, habitat for fish.

(3) Unless other county stormwater management provisions are more restrictive, all development activity within NPDES Phase II area boundaries (excepting areas within the Birch Bay NPDES Phase II area boundary), as delineated at the time that the county determines that the development application is complete, shall comply with the most current editions of:

- The Washington State Department of Ecology Stormwater Management Manual for Western Washington; and

- Appendix 1, Minimum Technical Requirements for New Development and Redevelopment, of the Western Washington Phase II Municipal Stormwater Permit; and


(4) Development activity within the Birch Bay NPDES Phase II area boundary shall be subject to this Chapter or the 2005 Department of Ecology Stormwater Management Manual for Western Washington and Appendix 1 and 7 of the NPDES Phase II 2012-13 permit, whichever is more restrictive.


June 27, 2013
WHATCOM COUNTY
PLANNING COMMISSION

Findings Of Fact And Reasons For Action
Birch Bay NPDES Stormwater Development Regulations
Whatcom County Planning Commission June 27, 2013

1. The State Department of Ecology has included the Birch Bay Urban Growth Area (UGA) in Whatcom County's National Pollution Discharge Elimination System (NPDES) Permit beginning August 1, 2013.

2. Development within the 2013 Western Washington Phase II Municipal Stormwater Permit area must adopt a stormwater program for new development, redevelopment, and construction sites that meets the minimum requirements, thresholds, and definitions in Appendix 1 (S5.C.4.a.i) or adopt the WA State Stormwater Management Manual for Western Washington (S5.C.4.a.ii).

3. Our zoning code, Title 20, Chapter 20.80, Section .600 requires use of the "most current edition[s]" of the manual, the 2012 WA State Stormwater Management Manual for Western Washington.


5. Current stormwater regulations in Birch Bay include WCC 20.80.735-Water Resource Special Management Area, and WCC 20.80.630 – .636, Stormwater and Drainage. Development standards are found in Whatcom County Development Regulations Chapter 2, Section 221.

6. Current stormwater controls include on-site stormwater facilities for individual lots, protected native growth areas, temporary erosion and sediment control, phased clearing, and soil stabilization measures.


8. Whatcom County will be implementing all other applicable aspects of the NPDES Phase II permit in Birch Bay on August 1, 2013. These aspects include public education and outreach, public involvement and participation, illicit discharge detection and elimination, and operations and maintenance of infrastructure.

9. A presentation of the proposed changes was given to the Birch Bay
Watershed and Aquatic Resources Management District Advisory Committee on June 19, 2013.

10. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on June 24, 2013.

11. The proposal was posted on the County website on June 20, 2013.

12. Notice that the proposal had been posted on the County website was sent to citizen, media and other groups on the County’s e-mail list on June 20, 2013.

13. Notice of the subject amendment was submitted to the Washington State Department of Commerce on June 11, 2013.

14. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on June 14, 2013.

15. Notice of the Planning Commission hearing for the subject amendment was posted on the County’s website on June 20, 2013.


17. In order to approve the zoning amendment, the County must find that is consistent with the Growth Management Act. Additionally, the County must find that the zoning amendment is consistent with and implements the Whatcom County Comprehensive Plan.

18. This proposal is consistent with Growth Management Act because it keeps housing costs in the NPDES Phase II area comparable with the rural areas; and therefore, encourages development in the UGA.

19. Maintaining consistent stormwater rules will ensure the Growth Management Act policy goal of timely review of permits. A lack of training opportunities and clear guidance on the 2012 SWMMWW has made it difficult to consistently and effectively implement.

20. This proposal protects the environment with on-site stormwater facilities for individual lots, protected native growth areas, temporary erosion and sediment control, phased clearing, and soil stabilization measures.

21. The text amendment is consistent with the Whatcom County Comprehensive Plan because it meets the 2013 NPDES Phase II Permit requirements (Policy 11G-9).
IV. PROPOSED CONCLUSIONS

1. The subject zoning amendment complies with the Growth Management Act.

2. The subject zoning amendment is consistent and implements the Whatcom County Comprehensive Plan.

V. RECOMMENDATION

Based upon the above findings and conclusions, staff recommends approval of the proposed amendments as shown on Exhibit A.

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair  
Sam Ryan, Secretary

Date 2-9-13  
Date 2-9-13

Commissioners present at the June 27, 2013 meeting when the vote was taken: Ben Elenbaas, Rod Erickson, Michelle Luke, David Onkels, Mary Beth Teigrob, Ken Bell.

Vote: Ayes: 6, Nays: 0, Abstain: 0, Absent: 3. Motion carried to adopt the above amendments.
Exhibit C
**CLEARANCES**

| Originator: | SM | Date: | 7/10/13 |
| Division Head: | |
| Dept. Head: | |
| Prosecutor: | |
| Purchasing/Budget: | |
| Executive: | |

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**TITLE OF DOCUMENT**  
Community Development Block Grant Closeout –  
Opportunity Council’s Housing Rehabilitation Project

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**ATTACHMENTS:**  
Opportunity Council’s Summary Project Report

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**SEPA review required?**  
( ) Yes  ( X ) NO  
**SEPA review completed?**  
( ) Yes  ( X ) NO  
**Should Clerk schedule a hearing?**  
( X ) Yes ( ) NO  
**Requested Date:**  
August 6, 2013

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**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.)*

Whatcom County received a CDBG Housing Rehabilitation Grant from the State of Washington’s Department of Commerce in the amount of $500,000. This grant was passed through by Subrecipient Agreement to the Opportunity Council in support of their housing rehabilitation and repair program for low- and moderate-income homeowners in Whatcom County. The project is now nearing completion. (See attached project report). A final public hearing is requested in accordance with the grant requirements and in order to receive community input on this grant-funded project.

A Final Grant Closeout Report and Final Budget must be completed and submitted to Dept. of Commerce before year end, and the County Executive respectfully requests Council’s authorization to sign and submit the Report.

**Recommended Legal Notice Language:**  
Whatcom County received a CDBG Housing Rehabilitation Grant from the State of Washington’s Department of Commerce in the amount of $500,000. This grant was utilized for the Opportunity Council’s Housing Rehabilitation and Repair Program for the benefit of low- and moderate-income homeowners in Whatcom County. The grant term is now nearing completion, and notice is hereby given that a public hearing will be held by the Whatcom County Council in the Council Chambers at the County Courthouse, on August 6, 2013 at 7:00 p.m. in order to review the final project performance and invite community input on the completion of this grant-funded project.

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**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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**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.*
COMMUNITY DEVELOPMENT BLOCK GRANT
REPORT TO WHATCOM COUNTY FOR A
HOUSING REPAIR AND REHABILITATION PROJECT

Information for Public Hearing to be held on 08/06/13

A $500,000 grant was received by Whatcom County to be used for housing repairs and rehabilitation in Whatcom County (excluding the city of Bellingham). This grant-funded program was managed and operated by the Opportunity Council.

Work started in 2010. 100% of the grant funds will have been expended by the end of August, 2013.

33 households were served:

17 households received major repairs and rehabilitation, averaging $18,985 each, for an approximate total of $323,000.

Approximately $113,000 will have been spent on administration by the end of August, in compliance with the terms of the grant contract.

$292,000 in revolving, deferred-payment loans were made. These funds, when repaid, will be used for future repair and rehabilitation activities.

The following are examples of repair projects undertaken:

1) Family of 3 living in a 1973 built ranch style home in Ferndale, with adult mentally handicapped daughter requiring full time parental supervision. Parents are seniors; one employed earning a modest income. Home is located in a comfortable middle class neighborhood. Poor construction allowed moisture damage, rotting floor joists and sill plate, creating an unsupported floor in two bedrooms. Catastrophic failure was imminent. Components replaced, water/moisture management system installed. Correcting these structural failures allowed installation of weatherization measures resulting in significant energy savings. Home is now preserved and operating efficiently. Without the CDBG program this home would have fallen into serious disrepair, possibly causing injury to occupants. The home, occupants, and neighborhood all benefited from this work.

2) Disabled occupant living in home requiring major repairs to sewage line, interior plumbing and electrical system. Sewage line was old style ceramic and collapsed causing sewage to back up into the house. Galvanized pipes in home had corroded and were leaking causing structural damage to bathroom floor. Serious electrical hazards discovered. Repair measures completed with CDBG allowing other work to be done with HPG and weatherization resources. Lead hazards identified and mitigated using CDBG funds. The homeowner will likely live in this home for her remaining years. It is now safe, well preserved, and more energy efficient. CDBG funding allowed this to become a viable and complete project.