WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
--- | --- | --- | --- | --- | ---
A. Rose |  | 10/1/2013 |  | 10/8/13 | Natural Resources
Orinator:
C. Brueske |  | 10/2/2013 |  |  | 
Division Head:
F. Abart |  | 10/2/2013 |  |  | 
Dept. Head:
D. Gibson |  |  |  |  | 
Prosecutor:
B. Bennett |  |  |  |  | 
Purchasing/Budget:
J. Louws |  |  |  |  | 
Executive:

TITLE OF DOCUMENT:

Whatcom County Marine Resources Committee (MRC) Program Update

ATTACHMENTS:

1. Memo

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.)

Whatcom County Public Works Natural Resources staff will provide an update of the Marine Resources Committee program, projects, and activities.

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

THROUGH: Frank M. Abart, Public Works Director

FROM: Chris Brueske, P.E., Assistant Director
       Austin Rose, Planner

RE: Marine Resources Committee (MRC) Update

DATE: October 1, 2013

requested Action
Whatcom County Public Works Stormwater Division and members of the Whatcom County Marine Resources Committee (MRC) request the opportunity to provide the Natural Resources Committee with an update its program and activities.

background and Purpose
The MRC was established as an advisory body to the Whatcom County Council for marine issues in our area. The committee is comprised of twenty-four individuals from the community and there are five citizen-based marine interest groups represented. These include: Conservation and Environmental Interest, Economic Interest, Recreational Interest, Relevant Scientific Expertise, and Citizen At-Large. In addition, the MRC has representation from elected officials, local tribes, and local government staff. The purpose of this presentation is to update members of the Natural Resources Committee on the MRC's current program activities and projects as well as its funding status.

For more information please contact Austin Rose at Public Works-Natural Resources at extension 50259 or arose@co.whatcom.wa.us.
**TITLE OF DOCUMENT:** Port of Bellingham: Associate Development Organization Report

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**ATTACHMENTS:**

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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.)

Information update regarding Economic Development including the 100 Manufacturers Visits, Associate Development Organization (ADO) activities and other ED services supported in the community.

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**COMMITTEE ACTION:**

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**COUNCIL ACTION:**

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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>
<th>Assigned to:</th>
</tr>
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<tbody>
<tr>
<td>Originator:</td>
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<td>9/11/13</td>
<td>9/24/13</td>
<td>Intro</td>
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<td>Division Head:</td>
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<td>10/08/13</td>
<td>Finance Committee; Council</td>
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<td>Executive:</td>
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<td></td>
<td>9/17/13</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:** 2013 Supplemental Budget Request #11

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

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes ( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( X ) NO</th>
</tr>
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<tbody>
<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 #11 requests funding from the General Fund:

1. To appropriate $13,000 in Cooperative Extension to fund Strengthening Families Program from Health Department contract proceeds.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

9/24/2013: Introduced

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**
SPONSORED BY: Finance
PROPOSED BY: Executive
INTRODUCTION DATE: 9/24/13

ORDINANCE NO.
AMENDMENT NO. 11 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>
<thead>
<tr>
<th></th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cooperative Extension</td>
<td>13,000</td>
<td>(13,000)</td>
<td></td>
</tr>
<tr>
<td>Total General Fund</td>
<td>13,000</td>
<td>(13,000)</td>
<td></td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>13,000</td>
<td>(13,000)</td>
<td></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: ________________________

I:\BUDGET\SUPPLS\2013_Suppl\Supplemental #11-2013.doc
## Summary of the 2013 Supplemental Budget Ordinance No. 11

<table>
<thead>
<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>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cooperative Extension</td>
<td>To fund Strengthening Families program from Health Dept contract proceeds.</td>
<td>13,000</td>
<td>(13,000)</td>
<td></td>
</tr>
<tr>
<td>Total General Fund</td>
<td></td>
<td>13,000</td>
<td>(13,000)</td>
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<tr>
<td>Total Supplemental</td>
<td></td>
<td>13,000</td>
<td>(13,000)</td>
<td></td>
</tr>
</tbody>
</table>
Supplemental Budget Request

Cooperative Extension

Suppl ID # 1590  Fund 1  Cost Center 2003  Originator: Drew Betz

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

Name of Request: Strengthening Families

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
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<tbody>
<tr>
<td>6120</td>
<td>Extra Help</td>
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<tr>
<td>6230</td>
<td>Social Security</td>
</tr>
<tr>
<td>6259</td>
<td>Worker's Comp-Interfund</td>
</tr>
<tr>
<td>6320</td>
<td>Office &amp; Cp Supplies</td>
</tr>
<tr>
<td>7140</td>
<td>Meeting Refreshments</td>
</tr>
<tr>
<td>8301</td>
<td>Operating Transfer In</td>
</tr>
</tbody>
</table>

Request Total  $0

1a. Description of request:
WSU Whatcom County Extension will coordinate and deliver the Strengthening Families Program for Parents and Youth 10-14 Years (SFP 10-14) to families in selected locations in the county. The program is delivered in 7 sessions at each location. Each series takes place in the evening at a host school. Dinner is included. Each session has 3 distinct lessons, an hour for each parents, youth and family. The youth and parents meet separately for the first hour and then the families meet together for the second hour.

1b. Primary customers:
Families with 10-14 year old youths. Families are broadly defined. Foster parents, relatives caregivers, step families and birth parents are all invited.

2. Problem to be solved:
The Whatcom County Substance Abuse Prevention Program has identified Family Management Programs for families with middle school aged children as a top priority for funding. We have already signed an Interdepartmental Funds Transfer Agreement with the Health Department.

3a. Options / Advantages:
WSU Whatcom County Extension has been providing this service since 2003. We moved the contract to Whatcom County funding in 2008. There are no alternatives to this high quality program in Whatcom County. This program has a proven track record here and families trust its quality. The Health Department has requested that we expand the program to serve families in all seven school districts.

3b. Cost savings:
Washington Public Policy Institute and the Prevention Research Center at Penn State University consider $6000 per participating youth a reasonable estimate for cost savings from substance abuse related crimes over a lifetime. We anticipate that 25-30 youth will complete the program, resulting in a possible savings of up to $180,000 for this program in a three month period.

Monday, September 09, 2013

Rpt: Rpt Suppl Regular
Supplemental Budget Request
Cooperative Extension

Sup# ID # 1590  Fund 1  Cost Center 2003  Originator: Drew Betz

4a. Outcomes:
We will measure the following:

1. Weekly attendance for all participants
2. Pre and post program measures for all adults and youth participating
3. Implementation details, costs of meals, volunteer time, etc.
4. Demographics of the participants

4b. Measures:
All of our evaluation data is sent to the state SFP office at WSU for analysis upon completion of the program. An outcome report is prepared for each series and an aggregated report is completed at the end of the 3 classes. The demographic data and attendance is entered onto a data management website by our coordinator as required by the contract with the Health Department. That data is entered monthly while the services are being delivered.

5a. Other Departments/Agencies:
Whatcom County Health Department funds this program to support the county Substance Abuse Prevention Plan. Our partners for this quarter are Ferndale Community Resources, Ferndale School District and Bellingham School District. Families in each program will provide positive impact on their own kids and the youth who associate with them. It will reduce negative behaviors and support pro-social behavior in parents and youth in and out of school.

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

6. Funding Source:
Whatcom County Health Department $55,000 from September 1, 2013 - August 31, 2014. We will be using using $13,000 of this in the last quarter of 2013.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
---|---|---|---|---|---
Originator: | X | 8/17/13 | | 9/24/13 | Introduction
Division Head: | | | | 10/8/13 | Finance/Council
Dept. Head: | X | 8/26/13 | | |
Prosecutor: | X | 9/10/13 | | |
Purchasing/Budget: | X | 9/12/13 | | |
Executive: | X | 9/17/13 | | |

TITLE OF DOCUMENT:

ATTACHMENTS:
Ordinance

SEPA review required? ( ) Yes ( ) 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.)

The Public Works Department no longer wants to maintain petty cash funds for Engineering Services, Road Design/Construction, and ER&R.

COMMITTEE ACTION:

COUNCIL ACTION:
9/24/2013: 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.
MEMORANDUM

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

THROUGH: Frank M. Abart, Public Works Director

FROM: Shonda Shipman, Public Works Accounting Supervisor

DATE: August 28, 2013

SUBJECT: Ordinance to close the Petty Cash funds for Road Engineering, Road Design/Construction and ER&R.

Requested Action:
Recommend approval of an ordinance to close the Road Engineering, Road Design/Construction, and ER&R petty cash funds.

Background and Purpose:
Public Works requests the closure of the petty cash funds maintained by Road Engineering, Road Design/Construction, and ER&R. There is not sufficient activity to warrant the need for these funds.

Information:
Public Works requests the closure of the above listed petty cash funds. The level of activity in these funds has decreased enough to not warrant having the funds. The current petty cash fund in Public Works Administration will provide funds for Road Design/Construction and ER&R when required. The need for a petty cash fund in Road Engineering has been eliminated. This is to request the closure of these petty cash funds.

Enc.
ORDINANCE NO. ________

REPEALING ORDINANCES 2009-045, 2006-350, AND 87-19 ESTABLISHING PETTY CASH REVOLVING FUNDS FOR PUBLIC WORKS ENGINEERING SERVICES, ROAD DESIGN/CONSTRUCTION, AND ER&R FUNDS

WHEREAS, Whatcom County Ordinances 2009-045, 2006-350, and 87-19 established a petty cash fund for Public Works Engineering Services, Road Design/Construction and ER&R funds;

WHEREAS, the petty cash funds for Public Works Engineering Services was set at One Hundred Dollars ($100.00), for Public Works Road Design/Construction was set at One Hundred Dollars ($100.00), and for Public Works ER&R was set at Two Hundred Dollars ($200.00); and

WHEREAS, the Public Works Department no longer desires to maintain these petty cash funds;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Public Works Engineering Services and Road Design/Construction Petty Cash Revolving Funds shall be closed and Two Hundred Dollars ($200.00) be returned to the Road Fund, and ER&R Petty Cash Revolving Fund shall be closed and Two Hundred Dollars ($200.00) be returned to the ER&R Fund.

ADOPTED this ________ day of __________, 20____.

ATTEST: ____________________________  WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM: ____________________________  WHATCOM COUNTY, WASHINGTON

__________________________  ____________________________
Daniel Gibson, Chief Civil Deputy Prosecutor  Jack Louws, County Executive

( ) Approved    ( ) Denied

DateSigned: ____________________________
Whatcom County Council Agenda Bill

Clearances

Initial: SM
Date: 9/27/13

Date Received in Council Office

Agenda Date: October 8, 2013
Assigned to: Finance

RECEIVED
OCT 01 2013
Whatcom County Council

Title of Document: Economic Development Investment Program – EDI Board recommendations

Attachments: Memorandum; EDI Program applications from Port of Bellingham and City of Bellingham; EDI TAC Funding Application Assessments; EDI Board Meeting Notes from 9/23/13; Rural Sales Tax Fund balances as of 7/31/13

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 Economic Development Investment Board has reviewed two funding applications, one from the Port of Bellingham and one from the City of Bellingham, and is making the following recommendation for adoption by the County Council:

1) Approval of the Port of Bellingham’s request for EDI funding in the amount of $3-million in support of the “C” Street Terminal Infrastructure Rehabilitation project: as a loan in the amount of $2-million and a grant in the amount of $1-million.

2) Approval of City of Bellingham’s request for EDI funding in the amount of $2.5-million in support of the North End Regional Stormwater Facility project: as a loan in the amount of $1,675,000 and a grant in the amount of $825,000.

Committee Action:

Council Action:

Related County Contract #: Related File Numbers:

Ordinance or Resolution Number:

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MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws, County Executive
Subject: Economic Development Investment Board – Funding Recommendations
Date: September 27, 2013

At the recent September meeting of the EDI Board, the Port of Bellingham and the City of Bellingham gave brief presentations to the board members regarding their respective public infrastructure projects.

There were two project-related discussions. The EDI Board recommends that the Whatcom County Council approve both projects for funding.

<table>
<thead>
<tr>
<th>Project</th>
<th>Funding Request</th>
<th>Board Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port of Bellingham's</td>
<td>$2-million (loan)</td>
<td>$2-million (loan*)</td>
</tr>
<tr>
<td>&quot;C&quot; St Terminal Infras.</td>
<td>$1-million (grant)</td>
<td>$1-million (grant)</td>
</tr>
<tr>
<td>Rehab Project</td>
<td>*Loan term is 7 years, at 1% interest rate.</td>
<td></td>
</tr>
<tr>
<td>City of Bellingham's</td>
<td>$1,675,000 (loan)</td>
<td>$1,675,000 (loan**)</td>
</tr>
<tr>
<td>North End Regional Stormwater</td>
<td>$825,000 (grant)</td>
<td>$825,000 (grant)</td>
</tr>
<tr>
<td>Facility</td>
<td>** Loan term is 10 years, at 1% interest rate.</td>
<td></td>
</tr>
</tbody>
</table>

Both EDI funding applications are attached for your review as you consider the recommendations at your meeting on October 8, 2013. Approval of these recommendations will result in the preparation of Interlocal Loan and Grant Agreements with both the Port of Bellingham and the City of Bellingham. Language will be within the City of Bellingham’s agreement which will accelerate their loan payments as developer fees are collected. The Administration has confirmed that sufficient fund balances are available for council approval of these requests.

Additionally, a supplemental budget for County Council review and approval will be prepared. These project applications and board recommendations, if approved, will allow them to move forward to completion.

If you have any questions on this matter, please feel free to contact me at 676-6717.

Attachments: POB’s EDI Program application and TAC Assessment
COB’s EDI Program Application and TAC Assessment
Meeting Notes of EDI Board meeting of 9/23/13
Public Utilities District Improvement Fund spreadsheet 7/31/13
Whatcom County
Economic Development
Investments Program
Application for Funding

PORT OF BELLINGHAM
“C” STREET TERMINAL UPLAND INFRASTRUCTURE REHABILITATION PROJECT

Jack Louws, Whatcom County Executive
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Preliminary Information and Application

Note: The intent of this Program is to be consistent with State law, RCW 82.14.370

1. Who is eligible to apply: Local general or special-purpose governments and higher education.

2. What projects are covered: Construction of publically-owned infrastructure, facilities, and related improvements, which enable or encourage the creation or retention of private sector businesses and jobs in Whatcom County consistent with EDI Program Policy Objectives.

3. What activities are fundable: New construction, refurbishment, replacement, rehabilitation, renovation or repair. Demolition is allowable if tied to construction. Soft costs allowed within scope of construction budget. No land acquisition except right-of-way included in a construction project.

4. What can you use the funds for: Transportation (roads, bridges, rail), utility services (water, sewer, storm, energy, telecom) and public buildings or structures.

5. Other Limitations: Planning/feasibility only projects are not eligible. Minimum local match is 10% of EDI request. EDI Board will make recommendations to the County Council which makes the final decision.

Preferential Project Types

First Preference – “JOBS IN HAND PROJECTS” – These types of projects will allow for the immediate creation and/or retention of jobs by providing public infrastructure that directly supports jobs. A perfect example would be a private business that will build or move into a facility and hire employees if a road is built or if water/sewer lines are extended to the site. These types of proposals would include a commitment by the private sector employer to create jobs and provide private investment.

Second Preference – “BUILD IT AND JOBS WILL COME PROJECTS” – These types of projects will construct public infrastructure but are not associated with a specific commitment from a private business to locate and/or create jobs. A perfect example would be the construction of roads and utility infrastructure to serve a new business park that would benefit multiple businesses.

Third Preference – COMMUNITY ENHANCEMENT PROJECTS” – These types of projects generally improve the physical appearance or create community assets to enhance the business climate. Examples would be boardwalk, streetscaping, downtown structures, and other publicly-owned facilities that make a community or region more attractive to existing or future businesses.

Last Updated: 12/4/12
Whatcom County Economic Development Investment (EDI) Program
Roving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Preferential Project Terms

First Preference – EDI LOAN – Due to the preferred revolving nature of EDI funds, proposals that are loan only will receive higher scoring. Loan terms and interest rate structure matches the Public Works Trust Fund program. The county will maintain discretion to modify such as including a deferral period.

Second Preference – LOAN/GRANT COMBINATION – The preferred combination of grant funds and loan funds is 1/3 grant, 2/3 loan.

Third Preference – EDI GRANT – Due to the “one-shot” nature of grants, projects of equal scoring requesting a grant only will be scored lower than another similar project requesting a loan/grant mix.

Preferential* Project Amounts (Guidelines)

JOBS IN HAND PROJECTS - $1,000,000 limit if grant only. $2,000,000 limit if combination of grant and loan. $3,000,000 limit if loan only.

BUILD IT AND JOBS WILL COME PROJECTS - $500,000 limit if grant only. $1,000,000 limit if combination of grant and loan. $1,500,000 limit if loan only.

COMMUNITY ENHANCEMENT PROJECTS - $250,000 limit if grant only. $500,000 limit if combination of grant and loan. $750,000 limit if loan only.

*Based on compelling reasons, the EDI Board and County Council may consider exceptions.

Past Performance

Have you received EDI Program funding in the past? _____X_____; Yes _________ No

If yes, provide project name and EDI grant/loan awarded: Wood Stone $500,000 loan, Index Industries $200,000 grant/$500,000 loan.

If yes, EDI Program staff and/or the EDI Board may conduct an audit to review performance measures against projected outcomes, such as job creation projections.

Has your jurisdiction received any audit findings from the Washington State Auditor in the past 10 years? _____Yes; X No. If yes, provide details:

________________________________________________________________________________________________________________________________________________________

Last Updated: 12/4/12
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

THRESHOLD PROJECT CRITERIA

Evidence of Planning

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>____</td>
<td>X</td>
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<tr>
<td>X</td>
<td></td>
</tr>
<tr>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

COMMENTS: The project is identified in the Port’s 2013 Strategic Budget narrative and funding was committed in 2013 for conceptual design work. For the 2014/15 budget underway the Port is including full design and construction of the project. The county hasn’t requested a CEDS project list since 2010.

THRESHOLD PROJECT SCORING

POINTS

Preferential Project Type

-10

- X Jobs In Hand 10 points

- Build It And Jobs Will Come 5 points

- Community Enhancement 2 points

5

Preferential Project Terms

- Loan Only 10 points

- X Loan/Grant 5 points

- Grant Only 2 points

0

Preferential Project Amounts

- Within Dollar Limits 5 points

- X Outside Preferred Dollar Limits 0 points

15

TOTAL POINTS

To proceed to other parts of the application and to receive EDI Board review, a proposed project must score 10 or more points on the above section.

Last Updated: 12/4/12
Whatcom County Economic Development Investment (EDI) Program
Revolution Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT APPLICANT

Applicant Name: Port of Bellingham
Applicant Address: 1801 Roeder Ave, Bellingham, WA 98225
Applicant Contact Person: Dodd Snodgrass
Applicant Email and Phone Number: dodds@portofbellingham.com, 676-2500

PROJECT TITLE

"C" Street Terminal Upland Infrastructure Rehabilitation Project

PROJECT AMOUNT REQUESTED

$3 million EDI Funds
$1 million grant
$2 million loan
$3.4 million Local Match (10% of EDI request minimum)

PROJECT TYPE

_X_ Jobs In Hand
___ Build It And Jobs Will Come
___ Community Enhancement

PROJECT TERMS

___ Loan Only
_X_ Grant/Loan
___ Grant Only

If a loan, term requested: 7 years

Last Updated: 12/4/12
Whatcom County Economic Development Investment (EDI) Program
Roving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT DESCRIPTION

The "C" Street Terminal Upland Infrastructure Rehabilitation Project ("C" Street Project) is proposed to rebuild existing infrastructure in support of the effort to restore marine trades in the Whatcom Waterway area to historic levels of activity. Existing boat yard and barge terminal operations, and the ability to attract additional businesses, are currently limited due to dilapidated marine infrastructure, degraded shorelines, and environmental contamination from past practices. The Port of Bellingham and City of Bellingham have entered into a Consent Decree with the Department of Ecology to perform environmental remediation of the Whatcom Waterway, including a Nationwide Permit (NWP 38 project). The "C" Street Project includes the north shoreline component of this remediation work and the additional upland rehabilitation work for the "C" Street Terminal. This EDI funding proposal for the "C" Street Project is consistent with the NWP 38 project and will result in additional rehabilitation of upland infrastructure, designed to support the continued economic viability of the traditional marine trades sector of Whatcom County.

The $12.4 million cost of the "C" Street Project includes $9.6 million for the remediation of the northerly shoreline area of the Whatcom Waterway, abutting the marine trades area along "C" Street and $2.8 million for additional rehabilitation of upland infrastructure. The "C" Street Project has a $3.0 million funding gap, for which EDI funds are being requested. The project elements include site surfacing and road improvements; stormwater collection, control, and treatment improvements to comply with Department of Ecology regulations; utility connections; and, foundation reinforcement for crane loading and cargo management. The Whatcom Waterway NWP 38 cleanup project and the "C" Street Project are each expected to start in 2014 with completion by May 2015.

Over the past 70 years, marine trades have been integral to Whatcom County and the regional economy. Port tenant activities in the marine trades provide 2,300 direct jobs, over 1,800 secondary jobs and create over $590 million in business revenue. The focus of economic redevelopment along "C" Street Project will support existing cargo and boatyard operations, commercial fishing, recreational/ commercial boating, and manufacturing of stressed concrete components used in heavy construction. The Project is expected to restore a broad range of small working waterfront businesses to historic levels, by providing opportunities for the retention, attraction, and recapture of business activity in the local marine trades industry.

Current Port tenants in the Project area include the Landings at Colony Wharf and Bellingham Marine Industries (BMI). The Landings provides boat haul-out, staging, storage and cargo management services. The Landings has 27 sub-tenants that perform fiberglass repairs, boat building, metal fabrication, bottom painting and electrical/electronic system maintenance. The Project will retain at least 114 direct jobs affiliated with the Landings and attract new support industry. BMI is the world leader in the design, engineering, manufacture and construction of marinas. BMI has recently expanded to the waterfront from their Ferndale location to develop a new line of precast concrete products for application in marine and transportation construction projects. BMI anticipates at least 20-25 jobs created on-site per project. They are investing in a heavy load crane pad and other upland facilities to support their new product line.

The "C" Street Project cost estimate is $12.4 million with $9.4 million already secured. The Port has committed $3.4 million in local funds and secured $5.9 million in state grants. The EDI grant/loan request of $3 million provides the gap funding and is 24% of the total cost.

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Roving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

BASIC PROJECT INFORMATION

1. Complete the public project budget and status of funds below. If EDI funds are approved is funding 100% complete?  _X_ Yes  _No_

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Amount</th>
<th>Planned/Applied For</th>
<th>Secured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Dollars</td>
<td>$5,947,632</td>
<td>Yes ___  No ___</td>
<td>Yes ___  No ___</td>
</tr>
<tr>
<td>State Dollars</td>
<td>$3,417,633</td>
<td>Yes ___  No ___</td>
<td>Yes X  No ___</td>
</tr>
<tr>
<td>Local Dollars</td>
<td>$3,000,000</td>
<td>Yes ___  No ___</td>
<td>Yes X  No ___</td>
</tr>
<tr>
<td>EDI Funding</td>
<td>$3,000,000</td>
<td>Yes ___  No ___</td>
<td>Yes ___  No X</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$12,365,265</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

State and local dollar total is $9.4 million: Funding commitments through state Model Toxic Control Account (MTCA) grants ($4.9 million), state Environmental Legacy Stewardship Account (ELSA) grant ($1 million) and $3.8 million through the Port’s pre-funded environmental insurance and capital funds.

2. Describe the amount of outside (private) funding committed to the project (eg. Plant and equipment).

Bellingham Marine Industries (BMI) will spend up to $88,600 on a crane pad as a lease condition. The Landings at Colony Wharf is expected to commit up to $150,000 on stormwater improvements on its site and invest in a new 5,000 sq. ft. building. BMI anticipates additional initial leasehold improvements of at least $200,000 and could lead to much higher investment in plant and equipment as it ramps up production.

3. Describe the public infrastructure being proposed. Include engineering estimates and a site map detailing the proposed improvements as Attachments A and B.

The “C” Street Project includes the north shoreline component of the Whatcom Waterway WNP38 remediation work and the additional upland rehabilitation work for the “C” Street Terminal. The WNP38 environmental remediation project is designed to provide ancillary habitat benefit to ESA-listed salmon and other species. The Port has completed 100% engineering design and bid-ready documents. The shoreline area will be rehabilitated with this project. The project is expected to have all regulatory approvals this fall, including a Nationwide Permit 38 (WNP38) from the U.S. Corps of Engineers. EDI provides gap funding for this component.

The terminal rehabilitation component includes additional upland infrastructure rehabilitation, not covered in the remediation project, to support marine trades at the existing Port-owned barge terminal and other Port-owned property. The project elements include site surfacing and road improvements; stormwater collection, control, and treatment improvements to comply with Department of Ecology regulations; utility connections; and, foundation reinforcement for crane loading and cargo management. EDI provides gap funding for this component.

The Whatcom Waterway WNP38 cleanup component and the terminal component are both expected to start in 2014 with completion by May 2015.

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4. Describe how these improvements will enhance or encourage community vitality and stimulate other private development in the area.

This project will result in additional rehabilitation of upland infrastructure, designed to support economic redevelopment of the marine trades sector of Whatcom County. The project site includes an existing barge cargo handling area, which was formerly leased to the Landings at Colony Wharf for haul-out, staging, boat storage and cargo movement to and from barges at the existing bulkhead along the Whatcom Waterway. This area has recently been removed from the balance of the leased area in order to be rehabilitated as a separate Port facility for marine cargo handling.

The project will immediately support tenant activity on 5.5 acres along “C” Street. From its existing barge ramp the Landings at Colony Wharf has handled bulk construction material such as rock aggregate. Within its lease area 27 sub-tenants of the Landings and a wide variety of licensed business operators provide the complete range of working waterfront maritime services including fiberglass repairs, boat building, metal fabrication, bottom painting and electrical/electronic system maintenance. The “C” Street Project will help retain these businesses and attract new support industry.

Historically, BMI was founded at 1011 “C” Street, and is now returning there, expanding to 2 acres on “C” Street from its present location in Ferndale. The company plans to manufacture precast concrete for roads, highways, bridges, and potential marine applications and ship them from the terminal. The company has passed up large scale transportation contracts because these products are too heavy to deliver by truck.

An additional 3 acres in the “C” Street area will also be available to new marine business activity. Importantly, the “C” Street area will be an asset for the entire 58 acre Marine Trades Area (area between the Whatcom Waterway, J&J Waterway and Roeder Ave), and will continue to provide marine access to Bellingham Bay and connectivity to other marine waters.

5. List all permits and environmental reviews required for the public project and detail their status (completed, in-process, etc.)

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>In Process</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td>X</td>
<td>Oct 2014</td>
</tr>
<tr>
<td>Environmental Review</td>
<td></td>
<td>Jul 2014</td>
</tr>
<tr>
<td>Design Engineering</td>
<td></td>
<td>Mar 2014</td>
</tr>
<tr>
<td>Right-of-Way</td>
<td></td>
<td>Jul 2014</td>
</tr>
<tr>
<td>Construction Permits</td>
<td></td>
<td>Jul 2014</td>
</tr>
<tr>
<td>Environmental Permits</td>
<td></td>
<td>Jul 2014</td>
</tr>
<tr>
<td>Bid Documents</td>
<td></td>
<td>Aug 2014</td>
</tr>
<tr>
<td>Award Construction Contract</td>
<td></td>
<td>Sept 2014</td>
</tr>
<tr>
<td>Begin Construction</td>
<td></td>
<td>Oct 2014</td>
</tr>
<tr>
<td>Project Operational</td>
<td></td>
<td>May 2015</td>
</tr>
</tbody>
</table>

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Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

6. Are any other public jurisdictions involved in this project? If so, in what way?

The City of Bellingham. Prior to 2012 the City owned the 3.5 acres along “C” Street that is leased to the Landings. In October that year the City and Port completed a land swap in which the Port obtained ownership of the City’s “C” Street marine trades properties, while the City took full ownership of the Cornwall Beach property from the Port. In addition the City will grant the Port a use license for operation and maintenance of “C” Street between approximately Chestnut Street and Laurel and a portion of Maple St.

7. Who will maintain the public facility/infrastructure to be completed with EDI funds? Will this project impact utility rates within the jurisdiction?

The “C” Street Project will be owned and maintained by the Port. Its operations will be conducted through agreements will lessors such as the Landings at Colony Wharf and BMI. The project will not impact utility rates.

8. Will this project directly generate a revenue stream that could be used to repay an EDI loan? Will this project spur indirect revenues that could be used to repay an EDI loan? If no to either question – why?

The project will generate user fee revenues toward operation, maintenance and capital costs. The Port will repay the EDI loan through a combination of Real Estate and Maritime revenues in addition to user fees from the terminal. Through a 7-yr amortization the Port will re-pay $297,256 annually to the county, which is invested back into the EDI program for awards to other applicants. The EDI loan and repayment plan helps the Port preserve capital outlays for other large capital project needs.

9. What other revenue sources are available for this project and have they been considered. This includes forming a Local Improvement District (LID orULID), issuing Councilmanic Bonds, Revenue Bonds, or other source(s).

The Port will not use its general obligation capacity for this project. It is not efficient or cost effective to issue a bond for a project of this size. The Port needs to retain its bonding capacity and preserve is capital funds for larger projects. EDI is an appropriate finance tool for this type of economic development project.

10. Describe the private development project that will be supported by this public facility project. If there is a committed private sector partner include Contingency Agreement (Attachment C).

The Landings at Colony Wharf started in its present location in 1987. Supported by tenants and on-site contractors it provides a complete range of boatyard services. The “C” Street Project will provide barge loading access for the Landings and its customers, and other Port customers. The upland infrastructure improvements will help retain tenant businesses of the Landings and recapture other services. Currently 114 jobs are directly supported by the Landings and its 27 subtenants. The Landings plans to invest in on-site stormwater improvements on its property as a condition of renewed lease negotiations with the Port.
Whatcom County Economic Development Investment (EDI) Program
Relying Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Bellingham Marine Industries was founded in 1928. BMI is the world leader in the design, engineering, manufacture and construction of marinas. BMI's NW Division is located in Ferndale and it started a new product line in precast concrete products for marine and transportation construction applications. With the advantage of the "C" Street Project, BMI anticipates at least 20-25 jobs created on-site per construction project for delivery of the products. BMI will invest in a heavy load crane pad to support the precast products that will be barged. Other on-site improvements will be made by BMI in buildings and equipment. In the larger context, the terminal will be an asset for development of the balance of the Marine Trades Area and the greater Bellingham Bay area in general.

11. Explain why the private development requires the proposed public improvement(s).

This Project is needed to retain and recapture a working marine waterfront on the Whatcom Waterway to a historical level of activity. Dilapidated marine infrastructure, degraded shorelines and environmental contamination from past practices is degrading the natural environment and impeding economic development. Over the last half century, traditional industrial uses and jobs have departed the waterfront leaving infrastructure in a state of disrepair and compromised by legacy of historical contamination in the land and water. In addition, stormwater control and management must be improved to current Ecology standards. This Project addresses those infrastructure challenges on the Whatcom Waterway that will benefit traditional maritime industry.

12. What is the status of the associated private development review and permits. List all permits required and give the current status (applied for, being reviewed, issued).

The tenants will be working on appropriate permits. A scheduling is not provided but the Port will coordinate with them as engineering design proceeds on the public project.

The Landings at Colony Wharf:

- Stormwater Permit for Industrial Discharge as a Boatyard, issued by Ecology
- Electrical Permit, depending on what structures are built. - City

BMI:

- Shorelines Development Permit - City
- Stormwater Permit - City
- Land Disturbance / Fill and Grade Permit - City
- Electrical Permit, depending on what structures are built. - City
- May need building permit, depending on what structures are built. - City

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13. Describe the type of industry or economic activity the public development will attract. What is the strategy to attract industry to the project site?

The focus of development in this area will accommodate marine trades businesses and jobs supporting commercial fishing, recreational/commercial boating, product manufacturing, and heavy construction. The “C” Street Project area is the primary location for a broad range of small working waterfront businesses on the Bellingham Waterfront. Over time the 58 acre Marine Trades Area will become a prime development opportunity for marine industry. The project will provide an updated facility to continue the benefits of the marine cargo terminal operations.

14. List the number of projected jobs, by type, to be retained and/or created by the private entity.

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Current Jobs Retained** (In FTEs)</th>
<th># Of Jobs Created Year 1 (In FTEs)</th>
<th># Of Jobs Created by Year 5 (In FTEs)</th>
<th>Hourly Wage of current or new position</th>
<th>Local Occupational Hourly Wages***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mgmt/Admin*</td>
<td>17</td>
<td>The Landings and its tenants</td>
<td>BMI (per project)</td>
<td>$35-50</td>
<td>N/A</td>
</tr>
<tr>
<td>Technical/Prof.</td>
<td>41</td>
<td></td>
<td></td>
<td>$50-75</td>
<td></td>
</tr>
<tr>
<td>Office/Clerical</td>
<td>4</td>
<td></td>
<td></td>
<td>$15-20</td>
<td></td>
</tr>
<tr>
<td>Production</td>
<td></td>
<td>20-25</td>
<td>20-25+</td>
<td>$14-15</td>
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</tr>
<tr>
<td>Sales</td>
<td>2</td>
<td></td>
<td></td>
<td>$30+</td>
<td></td>
</tr>
<tr>
<td>Skilled Crafts</td>
<td>50</td>
<td></td>
<td></td>
<td>$25-75</td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Totals</td>
<td>114</td>
<td>20-25</td>
<td>20-25+</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Indicate Management positions in annual salary.

** Retained jobs are defined as jobs that would otherwise be lost from the county without this project.

*** This column will be populated with data from the state before application is distributed and revised annually.

a. Projected annual gross payroll for all job classifications: $5 million (all Landings activity), BMI no estimate
b. Describe fringe benefits the company offers to regular full time employees? (health insurance, retirement plans, etc): BMI offers medical/dental/401k/and an employee profit sharing plan to all of its production personnel.

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15. How does this project support the economy of Whatcom County and how does it fit into a county-wide economic development strategy?

Marine Trades are a critical part of Whatcom County’s regional economy and culture. According to a 2008 impact study related to Port of Bellingham tenant activities marine-dependent businesses provide 2,300 direct jobs, over 1,800 secondary jobs and create over $590 million in business revenue. The marine industry is an identified industry cluster in Whatcom County and NW Washington and recognized in targeting development efforts by the Port the Port’s Strategic Budget, Waterfront District Master Plan and NW Washington Marine Industry Cluster Study (2007)

16. What will the effect of this project be on the natural environment – does the project address any issues related to public health, pollution, or quality of life?

The overall project, including the full Whatcom Waterway NWP38 project, will clean up historic contamination in marine sediment, soil and groundwater at two, state-listed Model Toxic Control Act (MCTA) sites: the Central Waterfront site and Whatcom Waterway site. The overall project will result in greatly improved habitat quantity, quality, and connectivity for a variety of species, including those listed under the federal Endangered Species Act. The northern shoreline of the Whatcom Waterway is generally devoid of vegetation and degraded by the presence of extensive manmade debris, creosote-treated timber structures, the presence of unnecessary vertical bulkheads, and overwater structures. This project will remove these features which damage and disconnect the nearshore habitat that is critical to migrating juvenile salmonids. Upgrades to the area’s stormwater collection, control, and treatment system from its present deteriorated condition, and deficiencies in its capacity will meet Department of Ecology standards. The upland rehabilitation at the “C” Street Terminal will provide stormwater controls for a portion of the Central Waterfront Cleanup Site – Chevron Subarea, providing a cap over the contaminated soils.

17. Does this project address any existing issues related to public safety and/or does it increase public safety in the future or address a potential future public safety issue?

Derelict structures and failing bulkheads along the northern shoreline of the Whatcom Waterway currently present a risk to navigation, public safety, and the environmental health of Bellingham Bay. These conditions will be remedied and rehabilitated under the Whatcom Waterway NWP38 project and the “C” Street Project for upland infrastructure improvements.

18. Describe specific quantifiable measures of the outcomes, other than purely jobs, that will demonstrate project success. Describe how you will measure this and explain what you expect to show as progress toward the outcome.

The overall project will provide removal of 158,900 cubic yards of contaminated sediment, placement of 126,600 cy of clean capping material, removal of 263 tons of creosote timber, removal manmade debris from 46,950sf of shoreline, replacing dilapidated bulkheads with shallow subtidal habitat. These are measurable outcomes prescribed by the Consent Decree. The “C” Street Project will rehabilitate nearly 1.5 acres of upland facilities associated with the marine terminal and its site access, and remediate and rehabilitate nearly 700 feet of shoreline.

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Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Application for Funding – Certification

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of Responsible Public Official: [Signature] Date 9/4/13

Last Updated: 12/4/12
# Whatcom County Economic Development Investment (EDI) Program

*Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs*

## EDI Technical Advisory Committee

**PROJECT SCORING SHEET**

<table>
<thead>
<tr>
<th>3 pts</th>
<th>2 pts</th>
<th>1 pt</th>
<th>S</th>
<th>M</th>
<th>W</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### ECONOMIC IMPACT

- Develops economic development infrastructure
- Retains or grows existing businesses
- Spurs additional private sector investment
- Will create new jobs
- Will retain existing jobs
- Provides above average wages
- Promotes community revitalization
- Will have significant local impact
- Will have significant regional impact
- Project will likely result in lasting benefit to the local community
- Project will likely result in lasting benefit to the regional community

### ENVIRONMENT AND QUALITY OF LIFE

- Protects and/or improves the natural environment
- Supports the sustainable use of environmental resources
- Provides significant contribution to improved health or quality of life
- Will contribute to public safety, public health, or aesthetic improvements to community
- Reduces pollution – water, wastewater, or storm drainage

### SAFETY AND PUBLIC SUPPORT

- Project improves safety
- Project addresses a current safety issue
- Project is supported in approved local plans

### FISCAL CONSIDERATIONS

- Project budget is well thought out and reasonable
- Match funds in hand and sufficient
- Is there a demonstrated need for financing
- Source of loan repayment demonstrated
- Asking for both grant and loan

---

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# Whatcom County Economic Development Investment (EDI) Program

*Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs*

## PROJECT SCORING

<table>
<thead>
<tr>
<th>3 pts</th>
<th>2 pts</th>
<th>1 pt</th>
<th>S</th>
<th>M</th>
<th>W</th>
<th>PROJECT READINESS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Level of completion – engineering and design</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Detailed schedule provided</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Extent to which permits, approvals and other authorizations are met</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Time period over which private investment will occur and jobs created</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>_ _ _ _ _ _ _ _ _ _</th>
<th>Total Number of Boxes Checked</th>
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<tbody>
<tr>
<td>x3</td>
<td>Multiplied By Associated Points</td>
</tr>
<tr>
<td>x2</td>
<td></td>
</tr>
<tr>
<td>x1</td>
<td></td>
</tr>
</tbody>
</table>

| _ _ _ _ _ _ _ _ _ _ | TOTAL SCORING POINTS |

| _ _ _ _ _ _ _ _ _ _ | TOTAL OF ALL SCORING POINTS (Max 81, Mid 54 and Minimum 27) |

**Bonus Points:**

<table>
<thead>
<tr>
<th>_ _ _ _ _ _ _ _ _ _</th>
<th>Add: 100 points if Project is “Jobs In Hand”</th>
</tr>
</thead>
<tbody>
<tr>
<td>_ _ _ _ _ _ _ _ _ _</td>
<td>Add: 50 points if Project is “Build It and Jobs Will Come”</td>
</tr>
<tr>
<td>_ _ _ _ _ _ _ _ _ _</td>
<td>Add: 25 points if Project is “Community Enhancement”</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>_ _ _ _ _ _ _ _ _ _</th>
<th>Add: 100 points if Request is Loan Only</th>
</tr>
</thead>
<tbody>
<tr>
<td>_ _ _ _ _ _ _ _ _ _</td>
<td>Add: 50 points if Request is Loan/Grant Combination</td>
</tr>
<tr>
<td>_ _ _ _ _ _ _ _ _ _</td>
<td>Add: 25 points if Request is Grant Only</td>
</tr>
</tbody>
</table>

| _ _ _ _ _ _ _ _ _ _ | GRAND TOTAL OF ALL SCORING POINTS (Max 281, Mid 154, Minimum 77) |

## SCORING ASSESSMENT

**Scoring Range of Points**

<table>
<thead>
<tr>
<th>281 points to 170 points</th>
<th>= Compelling Application – funding should be strongly considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>169 points to 125 points</td>
<td>= Moderate Application – funding might be considered</td>
</tr>
<tr>
<td>Less than 125 points</td>
<td>= Weak Application – funding should not be considered</td>
</tr>
</tbody>
</table>

Last Updated: 12/4/12
### COST AND BUDGET SUMMARY

#### 1) Core Costs for Shoreline Remediation

<table>
<thead>
<tr>
<th>Item</th>
<th>Costs</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction plus tax</td>
<td>$3,827,476</td>
<td>MTCA Grant @ 50% of eligible costs</td>
</tr>
<tr>
<td>Engineering Design &amp; Permitting</td>
<td>$616,765</td>
<td>Port Prefunded AIG Insurance Account</td>
</tr>
<tr>
<td>Construction Mgmt. &amp; Agency Oversight</td>
<td>$296,480</td>
<td>Port cost for non-MTCA eligible amount</td>
</tr>
<tr>
<td>Contingency @ 20%</td>
<td>$943,144</td>
<td></td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>$5,688,865</td>
<td><strong>SUBTOTAL</strong></td>
</tr>
</tbody>
</table>

#### 2) Incremental Remediation Costs to Preserve Land Uses

<table>
<thead>
<tr>
<th>Item</th>
<th>Costs</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction plus tax</td>
<td>$2,488,793</td>
<td>MTCA Grant @ 50% of eligible costs</td>
</tr>
<tr>
<td>Engineering Design &amp; Permitting</td>
<td>$551,268</td>
<td>Local (Port and EDI gap)</td>
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<tr>
<td>Construction Mgmt. &amp; Agency Oversight</td>
<td>$190,272</td>
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</tr>
<tr>
<td>Contingency @ 20%</td>
<td>$646,087</td>
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</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>$3,876,400</td>
<td><strong>SUBTOTAL</strong></td>
</tr>
</tbody>
</table>

#### 3) ‘C’ Street Terminal Rehabilitation Costs

<table>
<thead>
<tr>
<th>Item</th>
<th>Costs</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction plus tax</td>
<td>$1,923,990</td>
<td>State ELSA Grant</td>
</tr>
<tr>
<td>Engineering Design &amp; Permitting</td>
<td>$265,500</td>
<td>MTCA Grant @ 50% of bal. of eligible costs</td>
</tr>
<tr>
<td>Construction Mgmt. &amp; Agency Oversight</td>
<td>$143,845</td>
<td>Local (Port and EDI gap)</td>
</tr>
<tr>
<td>Contingency @ 20%</td>
<td>$466,665</td>
<td></td>
</tr>
<tr>
<td><strong>SUBTOTAL</strong></td>
<td>$2,800,000</td>
<td><strong>SUBTOTAL</strong></td>
</tr>
</tbody>
</table>

**TOTAL COST AND BUDGET** $12,365,265

<table>
<thead>
<tr>
<th>Funding Details</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>MTCA Grant Funding (State)</td>
<td>$4,947,632</td>
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<tr>
<td>ELSA Grant (State)</td>
<td>$1,000,000</td>
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<tr>
<td>Port AIG Prefunded Acct</td>
<td>$2,844,432</td>
</tr>
<tr>
<td>Port Capital Funds</td>
<td>$573,201</td>
</tr>
<tr>
<td>EDI Funding</td>
<td>$3,000,000</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$12,365,265</td>
</tr>
</tbody>
</table>
ATTACHMENT B
C STREET TERMINAL AND ABUTTING PARCELS

PORT OF BELLINGHAM

WHATCOM WATERWAY

PROPOSED REPLACEMENT SHEET PILE & SOURCE CONTROL WALL PER WHATCOM WATERWAY PHASE 2 CLEAN UP PROJECT (WWE-1)

PROPOSED NEW SHEET PILE CONTROL WALL PER WW-2

PROPOSED NEW SHEET PILE CONTAINMENT WALL PER WW-2

EXISTING SO OUTFALL TO BE REPLACED

BORROW MATERIAL

C STREET TERMINAL BOUNDARY

PORTION OF C STREET TO BE INCLUDED WITH TERMINAL DESIGN

C STREET

MAPLE ST.

CHESNUT ST.

RODER AVE.
EDI Program Technical Advisory Committee (TAC)
Funding Application Assessment

Applicant: Port of Bellingham
Project Title: C Street Terminal Upland Infrastructure Rehabilitation
Amount Requested: $2,000,000 Loan, $1,000,000 Grant
TAC Meeting Date: September 13, 2013
Attendees: TAC members Gary Jones, Jeff Kochman and Pinky Vargas; Bob Wilson, WCOG/NWEC staff.

Scoring: Following a discussion of the application the TAC members collectively scored it using the Northwest Economic Council EDI Technical Advisory Committee Project Scoring Sheet, which is attached herewith. The following are the scores the application received by category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Impact:</td>
<td>20 out of a maximum 33 points</td>
</tr>
<tr>
<td>Environment &amp; Quality of Life:</td>
<td>9.5 / 15</td>
</tr>
<tr>
<td>Safety &amp; Public Support:</td>
<td>5 / 9</td>
</tr>
<tr>
<td>Fiscal Considerations:</td>
<td>8 / 15</td>
</tr>
<tr>
<td>Project Readiness:</td>
<td>6 / 12</td>
</tr>
<tr>
<td>Bonus Points:</td>
<td>100 / 100 (Build It and Jobs Will Come)</td>
</tr>
<tr>
<td>Bonus Points:</td>
<td>50 / 100 (Loan/Grant Combination)</td>
</tr>
<tr>
<td>TOTAL:</td>
<td>198.5 / 284</td>
</tr>
</tbody>
</table>

The score of 198.5 places the application in the “compelling” range, which is 170 to 284.

Comments: The TAC agreed that it would have benefitted by the presence of a representative of the Port at the meeting to answer certain questions that were not clear on the application. For instance, it was unclear to the TAC if the 20-25 jobs to be “created” by BMI would be new or merely existing jobs that are currently based in Ferndale. The TAC also questioned the reasoning behind the assertion that 114 jobs currently held by employees of The Landings and its tenants as would be lost without this project (see the table on Page 11). Finally, the TAC felt that there was not enough information in the application to answer the question of whether the Port has a “demonstrated need for financing.”

The TAC viewed favorably the relatively short term (7 years) proposed by the Port for repayment of the requested $2-million loan.
Northwest Economic Council EDI Technical Advisory Committee

PROJECT SCORING SUMMARY

Applicant: Port of Bellingham  Project Name: C Street Terminal  Date: 9/19/2013

S = Strong
M = Medium
W = Weak

<table>
<thead>
<tr>
<th>3 pts</th>
<th>2 pts</th>
<th>1 pt</th>
</tr>
</thead>
<tbody>
<tr>
<td>S</td>
<td>M</td>
<td>W</td>
</tr>
<tr>
<td>2.5</td>
<td>1.5</td>
<td>-</td>
</tr>
</tbody>
</table>

**ECONOMIC IMPACT**

- ___  ___  ___  Develops economic development infrastructure
- ___  ___  ___  Retains or grows existing businesses
- ___  ___  ___  Spurs additional private sector investment
- ___  ___  ___  Will create new jobs
- ___  ___  ___  Will retain existing jobs
- ___  ___  ___  Provides above average wages
- ___  ___  ___  Promotes community revitalization
- ___  ___  ___  Will have significant local impact
- ___  ___  ___  Will have significant regional impact
- ___  ___  ___  Project will likely result in lasting benefit to the local community
- ___  ___  ___  Project will likely result in lasting benefit to the regional community

2.0 / 33 points

**ENVIRONMENT AND QUALITY OF LIFE**

- ___  ___  ___  Protects and/or improves the natural environment
- ___  ___  ___  Supports the sustainable use of environmental resources
- ___  ___  ___  Provides significant contribution to improved health or quality of life
- ___  ___  ___  Will contribute to public safety, public health or aesthetic improvements to community
- ___  ___  ___  Reduces pollution – water, wastewater or storm-water drainage

9.5 / 15 points

**SAFETY AND PUBLIC SUPPORT**

- ___  ___  ___  Project improves safety
- ___  ___  ___  Project addresses a current safety issue
- ___  ___  ___  Project is supported in approved local plans

5 / 9 points

**FISCAL CONSIDERATIONS**

- ___  ___  ___  Project budget is well thought out and reasonable
- ___  ___  ___  Match funds in hand and sufficient
- ___  ___  ___  Is there a demonstrated need for financing
- ___  ___  ___  Source of loan repayment demonstrated
- ___  ___  ___  Asking for both grant and loan

8 / 15 points
PROJECT READINESS

2.5 1.5

Level of completion – engineering and design
Detailed schedule provided
Extent to which permits, approvals and other authorizations are met
Time period over which private investment will occur and jobs created

6 / 12 points

Total Number of Boxes Checked

4 2 9 3 9

Multiplied by Associated Points

x3 x2.5 x2 x1.5 x1

Total of Each Column

12 5 18 4.5 9

POINTS SUB-TOTAL (Maximum of 84)

48.5

Bonus Points:

Add: 100 points if Project is “Jobs In Hand”
Add: 50 points if Project is “Build it and Jobs Will Come”
Add: 25 points if Project is “Community Enhancement”

Add: 100 points if Request is Loan Only
Add: 50 points if Request is Loan/Grant Combination
Add: 25 points if Request is Grant Only

150

BONUS POINTS SUB-TOTAL (Maximum of 200)

198.5

TOTAL POINTS (Maximum of 284)

SCORING ASSESSMENT

Range of Points

284 to 170 points = Compelling Application – funding should be strongly considered
169 to 125 points = Moderate Application – funding might be considered
Less than 125 points = Weak Application – funding should not be considered

Compiled by (Initial)
Whatcom County Economic Development Investments Program

Application for Funding

FROM

CITY OF BELLINGHAM

Jack Louws, Whatcom County Executive
Application Checklist

- **Completed Application**
  All portions of the application must be completed in full:
  - Summary Page
    - A. Requested Funding Terms
    - B. Project Description
    - C. Financial Information
    - D. Private Sector Commitment (complete this section for each private firm involved in project)
    - E. Project Feasibility

- **Signed Certification**
  See page 9 of application.

- **Resolution**
  Include a resolution or ordinance of the local governmental jurisdiction authorizing this EDI application.

- **Engineering Estimates**
  Attach if applicable.

- **Contingency Agreement(s)**
  Include a signed Contingency Agreement for each private sector firm involved in project. (Sample agreement on page 10.)

Please be clear and concise in your responses. Attachments are welcome.

This application can be obtained electronically from:
- The Whatcom County Government: [www.whatcomcounty.us](http://www.whatcomcounty.us)
- The Bellingham Whatcom County Economic Development Council: [www.nwecon.org](http://www.nwecon.org)
- The Whatcom County Executive’s Office: Executive@co.whatcom.wa.us

The applications that are received will be initially reviewed for completeness by the County Executive staff. Then the application is reviewed by the EDI Board and as appropriate approved by the Whatcom County Council.
Summary - Application for Funding

Applicant (Governmental Entity) City of Bellingham
Federal Tax Number 916001229L
Contact Name Ted Carlson
Title Public Works Director
Telephone 360-778-7998
Fax 360-778-7901
Email tcarlson@cob.org
Address 210 Lottie Street
Bellingham, WA

Project Title  North End Regional Stormwater Facility

Amount of EDI loan requested: $1,675,000
Amount of EDI grant requested: $825,000

Source of Local Match:
City of Bellingham Street / Stormwater Fund, $1,500,000

List other funding:

<table>
<thead>
<tr>
<th>Source</th>
<th>Date Requested</th>
<th>Date Approved</th>
<th>Amount of Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

TOTAL public project costs: $4,000,000
TOTAL private investment in plant/equipment
A. Request For Funding Terms

A1. Indicate the terms of the funding that you are requesting here.

Due to the significant amount of leverage by several public and private entities, the City of Bellingham is requesting $825,000 in grant funding and $1,675,000 loan.

(a) Total number of years for repayment 10

(b) Other specific terms: 1% interest

B. Project Description

B1. Describe the entire public facility project, including the parts that you are not asking EDI to fund.

The North End Regional Stormwater Facility “Facility” is a treatment and detention facility which will support development of approximately 80 acres in one of Bellingham’s employment centers. See Attachment A, Site Map. The City is taking this proactive economic development approach to create efficiencies and decrease risk to businesses looking to expand or locate their business in Whatcom County. The area that can be served by the Facility is bounded by Bakerview to the South, Pacific Highway to the West, Northwest Avenue to the East and the unimproved rights of way of June Road to the north. The Facility will provide the flow control and water quality treatment required for converting the area from its existing condition to industrial/commercial/retail and multifamily developments. Economic activities that will benefit from this Facility include the 160,000 s.f. Costco Store on Bakerview Road, 15 acres of single family development, 10 acres of developable land to be used by adjacent commercial properties as well as supporting the construction of two proposed arterial streets. The facility will help spur development in one of Bellingham’s largest emerging commercial and industrial centers.

A second part of the project, fully funded by the City of Bellingham, includes the creation of a wetland bank. By providing the opportunity for developers to buy into the proposed wetland bank the City will help reduce the cost and difficulty for developers to mitigate wetland impacts to potential development in the area.

B2. Will this project upgrade an existing public facility? No. Build a new one? Yes. Describe:

See above.
B3. Specifically, what element(s) of the public facility project will EDI funds pay for?

The EDI funds will only pay for the construction of the North End Regional Stormwater Facility improvements. The design, permits and plans will be paid for by the City of Bellingham. The property acquisition for the pond site has recently been completed and was paid for by the City of Bellingham.

B4. Include a site map of the area. (Materials must be reproducible in black and white and in 8 1/2 x 11 format.) Identify the location of the site, public infrastructure and private development project, existing and/or proposed.

Attachment A. Site Map

Attachment B. Economic Activity

B5. Attach engineering estimates that support project costs. Identify if estimates are from preliminary engineering or design engineering work.

Attachment C. Engineering Cost Estimate

B6. Describe how the public facility project will enhance or encourage other development in the immediate area in addition to the direct development described in this application.

The Facility will support approximately 80 acres of direct development, including stormwater from Mahogany, a critical arterial connecting Pacific Highway to Northwest Avenue. This new arterial will support continued development in an area recently annexed by the City and relieve congestion from Bakerview.

B7. List all permits and environmental reviews required for the public sector project and give their current status (applied for, application being prepared, permit issued, etc.)

<table>
<thead>
<tr>
<th>Permit/Environmental Review</th>
<th>Issuer</th>
<th>Status</th>
<th>Anticipated Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA</td>
<td>City of Bellingham</td>
<td></td>
<td>Jan 2014</td>
</tr>
<tr>
<td>Wetland</td>
<td>WSDOE &amp; USCOE</td>
<td></td>
<td>April 2014</td>
</tr>
<tr>
<td>Critical Area Permit</td>
<td>City of Bellingham</td>
<td></td>
<td>Jan 2014</td>
</tr>
<tr>
<td>Stormwater</td>
<td>City of Bellingham</td>
<td></td>
<td>Jan 2014</td>
</tr>
</tbody>
</table>

B7. Provide preliminary project schedule:

- **Estimated Completion Date (month/year)**
  - **Preliminary Engineering Report**: Complete January 2014
  - **Environmental Review**: May 2014
  - **All Required Permits Obtained**: April 2014
B8. Other jurisdictions.

(a) Are other jurisdictions, such as counties, cities, port districts, tribes, state/federal agencies involved in the planning, design, financing, construction or operation of this project? If so, please identify all entities:

No.

(b) Explain how completion of the project is coordinated between these entities.

N/A

B9. Who will operate and maintain the public facility in this project?

The City of Bellingham’s Stormwater Division.

B10. Will this project impact utility rates and public services within the jurisdiction? Explain:

Utility rates will not be impacted directly by this project.

B11. Is this project consistent with your local comprehensive plan, capital facilities plans and/or county comprehensive economic development strategy? If yes, attach relevant portion of plan. If no, please explain.

Yes, see Attachment D for the appropriate documents.
C. Financial Information On Cities, Towns, Port Districts or Counties

C1. Will a revenue stream be generated that could repay a EDI loan in addition to funding the operations and maintenance costs of the facility? Yes X No ___.

They City of Bellingham will utilize the private development contributions for use of the Facility to repay the EDI loan.

(a) If no, please identify eligible funding sources committed to loan repayment.

C2. In the context of your entity's overall annual budget, explain the need for EDI assistance.

While the $4 million project cost is a considerable financial undertaking for the City at this time, the City is committed to completing the project. The expenses are a large burden on the City's limited Surface and stormwater fund, so the City has borrowed from its internal Street Fund. The money borrowed from the Street Fund has already funded the property purchase as well as the design. The request for $2.5 million will enable the City to complete the construction while enabling the City to carry the costs of the improvements until the adjacent property participate in the cost recovery program. Assistance from our local EDI fund at this time will allow this project to move forward in 2014 and be completed by November 2014, which is just in advance of the early 2015 opening of a new 160,000 SF Costco Store with a 24-pump gasoline station. An additional 144,000 SF shopping center is also currently in the planning stages, with completion anticipated in 2016.

C3. If the local jurisdiction is not financially contributing to the project, please explain why. N/A

C4. Has the use of revenue or general obligation bonds, LID, ULIDS been explored for this public facility project? Yes X No ____. Explain the outcome and describe why these financing sources would or would not be applicable for this project.

The City has explored several methods of financing the improvements to the North End Regional Stormwater Facility. Revenue and general obligation bonds are not appropriate financing mechanisms for this project because the beneficiaries of the project are not limited to one particular jurisdiction and its ability to issue revenue or general obligation bonds with the assurance to its constituents that they are not simply subsidizing benefits that will accrue to other constituents and jurisdictions. Due to the large regional nature of the improvements, a Local Improvement District (LID) is also not an appropriate financing mechanism because it is not possible to develop a geographically concise “benefit area” and the development of a corresponding “benefit equation” to apply to surrounding properties to assess a proportionate benefit share toward the project improvements. Rather, the approach here is that adjacent property owners can opt to buy in to this Facility (not required like a LID) or treat and detain stormwater on their individual site.
D. Private Sector Commitment

Costco Wholesale, Inc. has committed to contribute a fair share of the cost relative to the amount of the facility they use for both the construction of a new arterial street named Arctic Avenue (See attachments), a 160,000 SF Costco Store, and a 24-pump gasoline station. The private residential developer to the north has also reserved capacity for their proposed development for up to 500 new homes. PMF Investments, the developers of the 144,000 SF shopping center, which is currently in the planning stages, have also requested that stormwater capacity be reserved and have agreed to pay for stormwater facility capacity used (See attachments).

D2. Describe the proposed private development or expansion project that will be supported by the public facility project.

Costco Wholesale, Inc. has filed an application and completed a traffic study for a 160,000 square foot retail store, 24-pump gas station, 800 stall parking lot, and a residual parcel for a 3,500 SF commercial restaurant use (see letter from Costco, Attachment E).

PMF Investments filed pre-application plans on July 19, 2013 and is conducting a traffic study to construct a 144,000 SF retail shopping center immediately west of the Costco Store site (see letter from PMF Investments, Attachment F).

The Mersey LLC is proposing a multifamily development. They have reserved 15 acres of stormwater capacity for their development.

D3. Explain why the private development requires the proposed public infrastructure improvements described in this application.

For example, the proposed Costco development will require stormwater detention and treatment for 21 acres. Due to the site constraints, an on-site facility would require installation of a vault or other buried system. Preliminary cost estimates for an on-site facility of this type are around $6 million. We estimate Costco’s proportional share of the regional facility to be around $1.2 million, for a savings of $4.8 million. This regional approach not only reduces permitting timelines and uncertainty but also reduces the cost of doing business in Bellingham.

D4. In the table below, list the number of projected jobs, by job type, to be retained and/or created as a direct result of the project. Express jobs as Full Time Equivalents (FTEs). 1 FTE = 40 hours per week. Do not include fringe benefits in wage data.

We estimate between 550 and 750 jobs retained or created as a result of the development associated with this facility. This estimate is based on 304,000 square feet of retail and commercial development of the Costco and PMF development proposals. This doesn’t include the economic impact of constructing the road, infrastructure or residential development.
D5. Explain how these job projections were developed. Attach supporting information such as a business plan or year-end financial statements. (Financial statements may be unaudited).  
*Note: The entire EDI application is considered a public record; however, financial and commercial information provided by the private business is exempt from disclosure to the extent permitted by 42.17 RCW.*

Employment data estimated above is derived from employment data from the existing Costco store on Meridian Street and Sehome Village and based on an employee per square foot calculation. See also Attachment B showing development under construction and in the permitting stages.

D6. Will the project provide expanded employment opportunities to disadvantaged or unemployed workers? How will the firm work to hire people from Whatcom County?  

**Specific hiring details are unknown at this time.**

D7. Outline construction schedule (if applicable) for the proposed private sector project.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Facility Construction Begins</td>
<td>5/14</td>
</tr>
<tr>
<td>Facility Construction Completed</td>
<td>10/14</td>
</tr>
<tr>
<td>Facility Operational</td>
<td>11/14</td>
</tr>
</tbody>
</table>
D8. List all permits required for the private sector project and give the current status (applied for, application being prepared, permit issued, etc.)

<table>
<thead>
<tr>
<th>Permit/Environmental Review</th>
<th>Issuer</th>
<th>Status</th>
<th>Anticipated Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costco Wholesale, Inc.: 160,000 SF Costco Store, 24-pump Gas Station, 3,500 SF Restaurant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Critical Area Permit</td>
<td>City of Bellingham</td>
<td>Submitted; Pending</td>
<td>12/31/2013</td>
</tr>
<tr>
<td>Planned Permit</td>
<td>City of Bellingham</td>
<td>Submitted; Pending</td>
<td>12/31/2013</td>
</tr>
<tr>
<td>Design Review</td>
<td>City of Bellingham</td>
<td>Submitted; Pending</td>
<td>12/31/2013</td>
</tr>
<tr>
<td>Public Facilities (Arctic)</td>
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<td>12/31/2013</td>
</tr>
<tr>
<td>Street Vacation Arctic</td>
<td>City of Bellingham</td>
<td>Submitted; Pending</td>
<td>12/31/2013</td>
</tr>
<tr>
<td>Stormwater Permit</td>
<td>City of Bellingham</td>
<td>Not Submitted</td>
<td>2/15/2014</td>
</tr>
<tr>
<td>Building Permit</td>
<td>City of Bellingham</td>
<td>Not Submitted</td>
<td>2/15/2014</td>
</tr>
<tr>
<td>Mersey, LLC: Up to 500 new residential homes</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Critical Area Permit</td>
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<tr>
<td>Planned Permit</td>
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<td>Undetermined</td>
</tr>
<tr>
<td>Stormwater Permit</td>
<td>City of Bellingham</td>
<td>Not Submitted</td>
<td>Undetermined</td>
</tr>
<tr>
<td>Building Permit</td>
<td>City of Bellingham</td>
<td>Not Submitted</td>
<td>Undetermined</td>
</tr>
<tr>
<td>PMF Investments: 144,100 SF Commercial Retail Shopping Center</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Critical Area Permit</td>
<td>City of Bellingham</td>
<td>Not Submitted</td>
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<td>Not Submitted</td>
<td>Undetermined</td>
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<tr>
<td>Building Permit</td>
<td>City of Bellingham</td>
<td>Not Submitted</td>
<td>Undetermined</td>
</tr>
</tbody>
</table>

*Note: All permits required to complete the project must be secured within six months of an EDI loan or grant approval.*
D9. What private authorizations are still needed before proceeding with the proposed private development project?

Both Costco and PMF Investments have requested that stormwater capacity be reserved for their commercial developments and Mersey LLC has a contract agreement with the City to reserve stormwater capacity for residential homes development.

D10. Explain how the private sector is financing their capital investment in this project. When will private sector financing be in place? Please list financial references that can verify financing sources and capacity for this project.

Financial contact(s):

David Rogers
Director of Real Estate Development
Costco Wholesale, Inc.
999 Lake Drive
Issaquah, WA 98027
(425) 427-7554
drogers@costco.com

Frank Stauff
Director of Construction & Development
PMF Investments
15015 Main Street, Suite 203
Bellevue, WA 98007
(425) 746-6066
frank@pmfinvestments.com

Note: Be sure to include a contingency agreement (see sample) for each private sector.
E. Project Feasibility

E1. Summarize the results of the feasibility analysis that supports your proposed public facility investments.

The City of Bellingham contracted with a design firm, OTAK, in 2012 to complete a feasibility analysis for a Regional Combined Wetland and Detention Site. The results of the memorandum stated that there appears to be several options for locating a stormwater facility in the north end study area to serve development. The City has since purchased one of the proposed sites that best fit the project requirements. In February of 2013 the City requested qualification from design firms to provide professional services for the completion of the North End Regional Stormwater Facility. The City contracted with Reichhardt & Ebe who have refined the design and provided the verification that a facility can be built to provide detention for 49 acres of impervious. Design is underway.

E2. Identify industries that are targeted for recruitment with this project.

See response to D.2.

E3. Describe a market strategy that contains action elements with appropriate timelines. Who will be responsible for implementing the marketing strategy?

The system has capacity to serve 80 acres of developable property. At this point in time, requests have been made to consume or use 100% of the facilities capacity. We do not anticipate a marketing program will be required.

E4. Describe the site’s appropriateness by addressing (at a minimum): The site itself is located within Bellingham. Areas around the site have the following attributes:

- Zoning – Light Industrial, Commercial and Residential
- Environmental restrictions – Discontinuous wetlands.
- Access to infrastructure
  - Water – yes, City of Bellingham purveyor
  - Sewer – yes City of Bellingham purveyor
  - Road – The site will be served from two new arterial streets, “Mahogany Avenue” (east-west and currently known as Division Street) and “Arctic Avenue” (north-south and currently known as Dover). West Bakerview Road lies to the south and the City of Bellingham is currently constructing $3.5 million of improvements to the West Bakerview Overpass of Interstate 5. Pacific Highway provides access on the west side and Northwest Drive provides access on the east side. West Bakerview Road is directly connected to Interstate 5 and the Bellingham International Airport, is a designated truck route, and a route for 3 separate WTA bus lines, including high-frequency transit service between Northwest and Eliza.
  - Rail – Rail service is available to the south and east of the site.
  - Electricity - yes
- Distance to markets – direct access to Interstate 5, Bellingham International Airport, and two of Bellingham’s largest commercial and industrial centers. Close proximity to the US/Canadian border.
o Site's ability to support the anticipated development over time.

The North End Regional Stormwater Facility improvements will be able to provide treatment for up to 80 acres of developable area. The City of Bellingham will maintain the facility, and the facility will be able to provide the treatment in perpetuity.

E5. Provide an analysis of other adequately serviced land in the area and give the primary reasons for the selection of the proposed site over other existing sites.

This project supports the development of various surrounding properties currently in City. The OTAK technical memorandum evaluated multiple sites in the area. The current site was selected based upon the ability to transport stormwater to the site, support the largest and most likely developments, and minimize impacts to wetlands.

E6. Describe the plan to secure the total required funding for the public facility improvements. Is it secured or not, and will it be available in the time frame established for project completion?

Project funding is secured and is available to meet the established time frame for project completion. The City has currently secured $1,500,000 for the design and acquisition of the property. The remaining funding may be acquired by interdepartmental loans within the City. The EDI funding would allow the City of Bellingham to begin construction work in 2014, which is earlier than current funding commitments allow.

E7. For the total project, including public and private components, please describe the projected number of jobs created and/or retained, anticipated wages and how wages compare to local prevailing wages, opportunities the project may offer to the local labor force and other related issues.

See Attachments with Employment Center Statistics. The business community will be able to expand and locate in this area providing a variety of employment opportunities to a diverse labor force.
E8. Describe specific, quantifiable measures of the outcomes, other than jobs, that will demonstrate project success. Describe how you will measure these. Explain what you expect to show as progress toward the outcome for each year before the whole outcome has been achieved.

This proposal offers the following benefits to businesses and the public:

✓ Create efficiencies;
✓ Reduce cost; and
✓ Minimize uncertainty.

The City of Bellingham is taking this proactive approach to economic development contributing to a positive business climate for the region. The success of the Facility will be measured by the City's ability to attract business interests.

Application for Funding – Certification

I HEREBY CERTIFY THAT THE INFORMATION GIVEN IN THIS APPLICATION TO WHATCOM COUNTY FOR INVESTMENTS IN ECONOMIC DEVELOPMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature of Responsible Public Official: [Signature] Date 9/6/13

Print or Type Name and Title: Ted A. Carson, Public Works Director
The North End Regional Stormwater Facility will serve significant economic development in the blue highlighted areas.

Attachment "B"
West Bakerview Area
Economic Activity

- Proposed 144,000 sq ft retail shopping center (2014), (250 - 350 Jobs)
- Proposed 160,000 sq ft Costco store w/gas station & 3,500 sq ft fast-food w/drive-thru (2015), (300-400 Jobs)
- Proposed 16,800 sq ft plasma center
- Approved residential project for 344 hsg units

- Approved 150 room Holiday Inn Hotel
- Proposed North End regional stormwater facility
- Capacity for 100-400 new jobs
- Capacity for 80-300 new jobs
- Approved 77 room Pacific Plaza Hotel
- W Bakerview / I-5 overpass and intersection improvements (2013)
- Proposed 105 room Hilton Home Hotel
- Bennett/Bakerview/Airport annexation request area. Estimated build-out = 400,000 - 1,500,000 sq ft (Gateway Industrial)

- Anvil Corp. office bldg, 15,000 sq ft constructed 24,000 sq ft add'l approved. (400 existing jobs 2013)
- Airport Park-N-Fly lot, 470 parking stalls under construction
- Alpha Tech - 300 existing jobs (2013)
- Mahogany Ave (2016)
- Garland Ln 32 hsg units
- Orchid Pkwy 62 hsg units
- 87 Room La Quinta Hotel - under construction
- Fred Meyer 167,000 Sq Ft
- Proposed 2014
- Bellingham Hsp Authority 76 units

50,000 Sq Ft Airport terminal expansion, under construction - opening 2014
## Engineers Cost Estimate

### Northend Stormwater Facility

**Total Project Costs**

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<th>Description</th>
<th>Estimated Costs</th>
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<tr>
<td>2</td>
<td>Property acquisition</td>
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<td>3</td>
<td>Construction</td>
<td>$2,500,000.00</td>
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<td>4</td>
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<tr>
<td>5</td>
<td><strong>Total Items</strong></td>
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still remain due to budget constraints. Projects on this list should be incorporated as funding allows.)

7. City/County Squalicum Creek stormwater utility feasibility study and revenue sharing of County flood control tax money. Cost: $150,000. (Note: This is a proposal to create a utility to fund solutions for problems in the Squalicum Creek Corridor. Most of the watershed is within the County with no dedicated mechanism to alleviate problems such as private culvert blockages and protection of the riparian corridor.)

STORMWATER – MITIGATING MEASURES

- In order to mitigate detrimental impacts, new development and redevelopment should utilize all known and reasonable technologies (AKART) to limit its effects on stormwater and the environment. AKART presently includes the use of the 2001 Department of Ecology Stormwater Manual for Western Washington. Programs and regulations should be consistently administered to meet this standard.

- Low Impact Development standards and technologies should be incorporated wherever possible to aid in the reduction of stormwater impacts.

- The recommended improvements in the Watershed Master Plan and WRJIA planning process should be implemented.

- Regional detention and water quality facilities should be used wherever feasible to provide economies in space.

- Regulations that govern ongoing stormwater discharge from existing developed areas should be vigorously enforced to limit pollutant loading.

- To the extent that is financially possible, existing stormwater systems should be retrofitted with Best Management Practices (BMP's) that reduce pollutant loading from the existing condition.

PART 3. FIRE PROTECTION, EMERGENCY MEDICAL, AND LAW ENFORCEMENT SERVICES

FIRE PROTECTION

CITY OF BELLINGHAM

The Bellingham Fire Department and Whatcom Medic One provide fire suppression, life safety education, code compliance, and emergency medical services (EMS) out of six fire stations and two county ambulance stations (See Map CF.7.). The Life Safety Division performs fire code plan
**Policy ED-28** Develop or support programs that seek to provide an increased supply of workforce housing.

Bellingham's transportation network and other infrastructure is an important asset in terms of encouraging and accommodating economic development. Traditional infrastructure provided by a municipality includes roads, water, sewer, stormwater and similar facilities and systems.

**Policy ED-29** Continue to provide adequate and efficient community infrastructure such as roads, water, sewer, stormwater management and other public facilities and services.

**Policy ED-30** Coordinate City investments in utilities, transportation and other public facilities with business and employment opportunities whenever possible.

**Policy ED-31** Maintain the adopted level-of-service standards for police, fire and emergency medical services.

**Policy ED-32** Explore the use of wetland mitigation tools such as mitigation banking or in-lieu-of fees that allow for more streamlined permitting and improved mitigation success.

**Policy ED-33** Explore the feasibility of adopting a regional approach to stormwater management when it can be shown to provide equal or better functions than on-site treatment.

**Policy ED-34** Encourage continued and expanded transportation options connecting Portland, Seattle, Bellingham and Vancouver, B.C.; and ferry service to the San Juan Islands, British Columbia and Alaska.

**Policy ED-35** Support the Port of Bellingham's efforts to advance the Bellingham International Airport, providing greater access to other marketplaces while also benefiting the local economy.

**Policy ED-36** Encourage and support the development of technology and telecommunications infrastructure citywide and throughout the region.

Many opportunities exist to reclaim and repurpose vacant, obsolete or contaminated land and buildings to improve community health and safety, increase environmental quality and provide economic benefits in these areas.

**Policy ED-37** Promote the efficient use/reuse of employment lands by coordinating with other levels of government to support and encourage the cleanup of contaminated soil and other environmental remediation activities.

**Policy ED-38** Identify and remove barriers to redeveloping underutilized and/or vacant land and buildings.
Attachment E

August 19, 2013

Mr. Ted Carlson, Director
Bellingham Public Works
210 Lottie Street
Bellingham, WA 98225

Dear Mr. Carlson,

In association with our plans to construct a new 160,000 square foot Costco Store with a 24-pump gasoline station, Costco Wholesale Corporation hereby commits to fund and construct Arctic Avenue (formerly referred to as Dover) to City of Bellingham collector arterial standards between West Bakerview Road and Mahogany Avenue (formerly referred to as Division). In addition, Costco is undertaking Due Diligence to determine the feasibility of constructing approximately 1,000 linear feet of Mahogany Avenue (formerly referred to as Division) to City of Bellingham collector arterial standards between Northwest Drive and Arctic Avenue. We plan to start construction on both Arctic Avenue and the section of Mahogany Avenue (contingent on favorable cost to construct) in autumn 2014 in anticipation of an autumn 2015 opening for the new store.

Costco understands and appreciates that Bellingham is making concerted efforts to find and commit funding to construct the remaining 2,200 linear feet of Mahogany Avenue collector arterial between Arctic Avenue and Pacific Highway. Our hope is that Bellingham can secure grant funding and commence construction sooner rather than later as the entirety of the Mahogany arterial link is viewed as critical to the success of our store and to other development in this part of Bellingham.

We are pleased to enter into this public-private partnership with the City and look forward to working with you and your staff to develop the streets needed to serve this area of Bellingham.

Sincerely,

David H Rogers
Director of Real Estate Development

CC: Chris Comeau
August 06, 2013

Mr. Sam Shipp
City of Bellingham Public Works Department
210 Lottie Street
Bellingham, WA 98225

Subject: RE: Bellingham Retail - Request for Use of Regional Detention Facility
Application Number: PRE2013-00049
Site Address: 1558 West Bakerview Road
Parcel Numbers: 380211313040, 380211293038, 380211276039, 380211258084, 380211282099.

Dear Mr. Shipp,

This letter is written to formally request use of the proposed regional storm water facility, which is in the preliminary stages of design, and is proposed to be located north of the site. It is understood that the project must meet the city of Bellingham and 2012 Department of Ecology Storm Water Maintenance Manual for Western Washington requirements for flow control and that storm water system development charges must be paid prior to use of the facility.

The preliminary site plan currently shows 11.21 acres of impervious surface. A fee total will be calculated using the city's current Water, Sewer, Stormwater and Transportation Impact Fees sheet, upon submittal of construction documents to the city for review.

Based on the current site plan and associated percentage of impervious area, the detention volume calculated in the draft storm water report, prepared as part of the pre-application submittal package is 7.03 acre-feet.

Please feel free to contact me if you have any questions or require additional information.

Sincerely,

PMF Investments.

Frank Stauff
Director of Construction & Development

Cc: Jason Porter, Utility Engineer – Public Works Department
    Kathy Bell, Planner – Planning & Community Development Department
EDI Program Technical Advisory Committee (TAC)
Funding Application Assessment

Applicant: City of Bellingham
Project Title: North End Regional Storm-water Facility
Amount Requested: $1,675,000 Loan, $825,000 Grant
TAC Meeting Date: September 13, 2013
Attendees: TAC members Gary Jones, Jeff Kochman and Pinky Vargas; Bob Wilson, WCOG/NWEC staff.

Scoring: Following a discussion of the application the TAC members collectively scored it using the Northwest Economic Council EDI Technical Advisory Committee Project Scoring Sheet, which is attached herewith. The following are the scores the application received by category:

<table>
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<tr>
<th>Category</th>
<th>Score</th>
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<tr>
<td>Economic Impact</td>
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<tr>
<td>Environment &amp; Quality of Life</td>
<td>7</td>
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<td>Safety &amp; Public Support</td>
<td>5</td>
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<tr>
<td>Fiscal Considerations</td>
<td>7</td>
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<td>Project Readiness</td>
<td>6</td>
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<tr>
<td>Bonus Points: Build It and Jobs Will Come</td>
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<td>Bonus Points: Loan/Grant Combination</td>
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<td>TOTAL</td>
<td>202.5</td>
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The score of 202.5 places the application in the “compelling” range, which is 170 to 284.

Comments: The TAC agreed that it would have benefitted by the presence of a representative of the City at the meeting to provide more detail about the “private development contributions” that will be used to repay the requested loan. Specifically, the TAC wanted to know if that refers to the $1.2-million indicated on Page 8 as “Costco’s proportional share of the regional facility”? The TAC also felt that there was not enough information in the application to answer the question of whether the City has a “demonstrated need for financing.”
Northwest Economic Council EDI Technical Advisory Committee
PROJECT SCORING SUMMARY

Applicant: **City of Bellingham** Project Name: **North End Stormwater** Date: 9/13/2013

\( S = \text{Strong} \)
\( M = \text{Medium} \)
\( W = \text{Weak} \)

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</table>

### ECONOMIC IMPACT

- **Develops economic development infrastructure**
- **Retains or grows existing businesses**
- **Spurs additional private sector investment**
- **Will create new jobs**
- **Will retain existing jobs**
- **Provides above average wages**
- **Promotes community revitalization**
- **Will have significant local impact**
- **Will have significant regional impact**
- **Project will likely result in lasting benefit to the local community**
- **Project will likely result in lasting benefit to the regional community**

\( 27.5/33 \) points

### ENVIRONMENT AND QUALITY OF LIFE

- **Protects and/or improves the natural environment**
- **Supports the sustainable use of environmental resources**
- **Provides significant contribution to improved health or quality of life**
- **Will contribute to public safety, public health or aesthetic improvements to community**
- **Reduces pollution – water, wastewater or storm-water drainage**

\( 7/15 \) points

### SAFETY AND PUBLIC SUPPORT

- **Project improves safety**
- **Project addresses a current safety issue**
- **Project is supported in approved local plans**

\( 5/9 \) points

### FISCAL CONSIDERATIONS

- **Project budget is well thought out and reasonable**
- **Match funds in hand and sufficient**
- **Is there a demonstrated need for financing**
- **Source of loan repayment demonstrated**
- **Asking for both grant and loan**

\( 7/15 \) points
PROJECT READINESS

Level of completion – engineering and design
Detailed schedule provided
Extent to which permits, approvals and other authorizations are met
Time period over which private investment will occur and jobs created

6/12 points

Total Number of Boxes Checked

Total of Each Column

POINTS SUB-TOTAL (Maximum of 84)

Bonus Points:

Add: 100 points if Project is “Jobs In Hand”
Add: 50 points if Project is “Build it and Jobs Will Come”
Add: 25 points if Project is “Community Enhancement”

Add: 100 points if Request is Loan Only
Add: 50 points if Request is Loan/Grant Combination
Add: 25 points if Request is Grant Only

BONUS POINTS SUB-TOTAL (Maximum of 200)

TOTAL POINTS (Maximum of 284)

SCORING ASSESSMENT

Range of Points

284 to 170 points = Compelling Application – funding should be strongly considered
169 to 125 points = Moderate Application – funding might be considered
Less than 125 points = Weak Application – funding should not be considered

Compiled by (initial)
Notes of EDI Board Meeting  
September 23, 2013, 10:00 a.m.

Board Members present at Meeting:  
Jack Louws, County Executive  
Kelli Linville, Mayor, City of Bellingham  
Scott Korthuis, Mayor, City of Lynden  
Stephen A. Jones, Agricultural Industry  
Kathy Kershner, County Council Chair  
Jeff McClure, PUD#1  
Aubrey Stargell, Timber Industry  
Bill Gorman, Chamber of Commerce  
Jim Kyle, Fishing Industry  
Jeff Kochman, NWEC

Board Members absent:  
Michael McAuley, Port of Bellingham  
Bob Bromley, Mayor, City of Sumas

Staff present:  
Suzanne Mildner (Board Clerk, Executive Office)

Guests present:  
Dodd Snodgrass, Brian Gouran and Rob Fix from the Port of Bellingham; Ted Carlson and Brent Baldwin from the City of Bellingham; Paul Schissler; Bob Wilson (WCOG)

1. Welcome and Introductions  
Board Chair, Executive Jack Louws called the meeting to order and introductions were made.

2. EDI Fund Review – Status as of 7/31/13  
A review of the Public Utilities Improvement/EDI Fund was given as of 7/31/13. Executive Louws briefly went over the revenues, expenditures and commitments noted on the spreadsheet. A second handout was reviewed, which outlined the Projected Cash Balance through 12/31/14, calculated with the assumption that both of today’s applicants would have been fully funded. With this scenario, the estimated fund cash balance on 12/31/14 would be $1.9-million. It was also noted that this would mean we likely wouldn’t be in a position to fund new applications until late 2014 or 2015, depending on revenues and the timing of committed funds being expended.

3. EDI Program – Application Process Update  
Executive Louws informed the board that the use of the Application checklist had been omitted recently following the transition to the TAC review process. Since the checklist is useful to ensure an application is complete, we will begin requiring its use for future applications. Further, one of the application requirements noted on the Checklist is the submission of a signed Resolution from the local elected officials. This document is useful as it affirms that the elected leaders of the jurisdiction have provided their approval for the application and the project budget as a whole. So in future, a complete EDI application will include a signed Resolution.

4. Application: Port of Bellingham’s “C” Street Terminal Upland Infrastructure Rehabilitation Project  
Rob Fix introduced Brian Gouran, POB’s Environmental Project Manager. Brian spoke briefly about the value of this project, and the Brownfields concept, the scope of which involves clean up through redevelopment. They are integrating their clean up with marine infrastructure development, stormwater management and upland infrastructure rehabilitation. Dodd Snodgrass said the Port’s EDI fund request is for gap financing for this $12.4-million project. There are two Port tenants on the project site: BMI (Bellingham Marine Industry) and Colony Wharf. These tenants currently pay lower than market rents. They are also committing their own (private) investment towards improvements for this project. This project will result in job retention and new job creation by attracting new support industry. Executive Louws asked Jeff Kochman to comment on the TAC’s review findings. Mr. Kochman explained that the committee
had expected representatives from the Port to be present at their meeting. Since that wasn’t the case, they had some questions that were unanswered so their results may reflect this to some degree. He asked if the map (handout) showed the entire project area, to which Dodd replied yes. The TAC gave a favorable review for the project. Mayor Korthuis commented that he is in favor of the project, and likes that the loan term requested is only 7 years, which means loan monies will be returned to the fund relatively quickly. Mr. McClure asked Mr. Fix about the 2 lessees, and whether or not longer term leases are being sought, to which Mr. Fix replied in the affirmative. Jim Kyle supports this project and made some comments regarding the chargeable marine trade in our community. He asked Mayor Linville if City of Bellingham supports long term survival of the marine trades, to which Mayor Linville replied “Absolutely, yes.” And she commented that the Port of Bellingham is much better suited to managing this area than the City is. She is very much in support of this project. Mayor Korthuis moved that the EDI Board recommend approval to the County Council for fully funding this project application ($2-million loan and $1-million grant). Mayor Linville seconded the motion. Executive Louws called for a vote on the motion, which was taken. **Motion passed unanimously 10-0.**

5. **Application: City of Bellingham’s North End Regional Stormwater Facility**
Ted Carlson addressed the board about the needs and benefits of locating a regional facility in this area for water treatment, flow and detention. The regional approach makes sense in this area, transforming it from its existing condition to industrial/commercial/retail and multifamily developments. Costco is coming into this area with plans for a new 160,000 square foot building. This project will also help spur future development. The City is asking for construction money, both grant and loan, with the loan term being 10 years. And from a cash flow perspective this is gap funding. They also have some private investment in the project. The projected timeline for completion is late 2014. Mayor Korthuis asked if the facility is now planned to capacity; is there any room for growth? Mr. Carlson answered that there are opportunities in this area to build a second facility – detached from this one. Mr. Kochman stated that the TAC provided their support for this project. Mr. McClure asked if the loan term is negotiable, to which Mr. Carlson replied yes, the City would be able to consider a shorter term. Executive Louws called for a motion. Mr. Kochman moved that the EDI Board recommend approval to the County Council for fully funding this project application ($1,675,000 loan and $825,000 grant). Steve Jones seconded the motion. Mr. McClure requested a friendly amendment to include possible negotiation of loan terms for a shorter term or early prepayment of loan principle, if possible by COB. Executive Louws accepted the amendment and called for a vote on the motion, which was taken. **Motion passed unanimously 10-0.**

6. **Other business.**
Mr. Stargell asked for an update on the status of the Foothills Broadband project. Executive Louws said that the fund commitment still stands. He had received an email from Mr. Jilk of the PUD #1 that they are still working to get other investors and plan to come back to the EDI Board in the near future with another request to augment their current project budget.

There being no further business, the meeting adjourned at 11:15 a.m.

**NEXT MEETING DATE: TBD**

Respectfully Submitted,
Suzanne Mildner,
Clerk, EDI Board
Whatcom County Executive Office
### Whatcom County
### Rural Sales Tax
### Report as of 7/31/2013

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<td></td>
<td>Principal/ Interest Payments</td>
<td>-</td>
<td>(2,055,660.00)</td>
<td>(2,055,660.00)</td>
<td>(2,055,660.00)</td>
<td>(2,055,660.00)</td>
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<tr>
<td></td>
<td>Adjusted Total</td>
<td>(34,083,264.06)</td>
<td>(23,104,088.74)</td>
<td>(50,000.09)</td>
<td>(13,084,855.32)</td>
<td>(9,596,112.66)</td>
<td>(3,488,742.66)</td>
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</tbody>
</table>

*Committed equals the total remaining commitments from the table below.

### Administration and EDI Proposed Commitments

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Total Approved</th>
<th>Capital Facilities Fund</th>
<th>EDI Loan</th>
<th>EDI Grant Fund</th>
<th>Total Remaining Commitments</th>
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<tbody>
<tr>
<td>West Illinois/ Timpson Way Extension (332217)</td>
<td>389,619.00</td>
<td>-</td>
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<td>East Whatcom Regional Res. Ctrl. Kendall (332205)</td>
<td>2,284,343.00</td>
<td>-</td>
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<td>27,208.00</td>
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<tr>
<td>Eval Svcs-Civic Center Bldg (332206)</td>
<td>2,382,798.00</td>
<td>3,310.09</td>
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<tr>
<td>Data Center Generator &amp; UPS (332207)</td>
<td>245,000.00</td>
<td>79,018.21</td>
<td>-</td>
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<tr>
<td>Ferndale Affordable Housing (332213)</td>
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<td>943,038.77</td>
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<td>POB ED Consortium (332219)</td>
<td>430,000.00</td>
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<td>88,918.59</td>
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<td>COB-West Bakerview Overpass Project (332232)</td>
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<td>PUD I-Broadband</td>
<td>217,500.00</td>
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<td>Nooksack Wastewater Plant Upgrade (332226)</td>
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<tr>
<td>City of Lynden-Water Treatment Plant</td>
<td>6,000,000.00</td>
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<td>4,000,000.00</td>
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<tr>
<td>COB Waterfront Project</td>
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<td>-</td>
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<td>Totals</td>
<td>16,804,260.00</td>
<td>82,328.30</td>
<td>5,463,038.77</td>
<td>4,050,745.59</td>
<td>9,596,112.66</td>
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<table>
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<tr>
<th>Cost Center</th>
<th>Description</th>
<th>Type of Activity</th>
<th>Total Committed</th>
<th>Actual 2001-2007</th>
<th>Actual 2008</th>
<th>Actual 2009</th>
<th>Actual 2010</th>
<th>Actual 2011</th>
<th>Actual 2012</th>
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<tr>
<td>332100</td>
<td>Construction Management</td>
<td>Capital Facilities</td>
<td>179,650.95</td>
<td>192,975.50</td>
<td>107,478.00</td>
<td>7,346.60</td>
<td>7,775.45</td>
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<td>500,942.90</td>
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<tr>
<td>332200</td>
<td>CH Romodel - 2nd Floor</td>
<td>Capital Facilities</td>
<td>64,930.00</td>
<td>64,930.00</td>
<td>64,930.00</td>
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<tr>
<td>332201</td>
<td>Glader Restrooms</td>
<td>Capital Facilities</td>
<td>19,627.74</td>
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<tr>
<td>332203</td>
<td>Hannegan Rg Signalization</td>
<td>Capital Facilities</td>
<td>2,000.00</td>
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<td>2,000.00</td>
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<tr>
<td>332204</td>
<td>Williamson Way</td>
<td>Capital Facilities</td>
<td>500,000.00</td>
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<td>30,341.14</td>
<td>99,144.36</td>
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<td>Swalve Soc Civic Ctr Bldg</td>
<td>Capital Facilities</td>
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<td>430,400.00</td>
<td>1,430,725.91</td>
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<td>332207</td>
<td>Data Center Generators &amp; UPS</td>
<td>Capital Facilities</td>
<td>245,000.00</td>
<td>245,000.00</td>
<td>245,000.00</td>
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<tr>
<td>332209</td>
<td>should be 033209?</td>
<td>Capital Facilities</td>
<td>760,000.00</td>
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<tr>
<td>332219</td>
<td>POE-ED Consortium</td>
<td>Capital Facilities</td>
<td>100,000.00</td>
<td>100,000.00</td>
<td>100,000.00</td>
<td>100,000.00</td>
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<td>100,000.00</td>
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<td>332220</td>
<td>Fiber Optic Cable</td>
<td>Capital Facilities</td>
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<td>62,765.00</td>
<td>62,765.00</td>
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<td>332230</td>
<td>EDI Program Admin-ED</td>
<td>Capital Facilities</td>
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<tr>
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<td>Interim Jail Work Center</td>
<td>Capital Facilities</td>
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<tr>
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<td>One Stop Shop</td>
<td>Capital Facilities</td>
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<td>Capital Facilities</td>
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<tr>
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<td>Jail Commit</td>
<td>Capital Facilities</td>
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</tr>
<tr>
<td>332401</td>
<td>CH Rolunda Roof Replacement</td>
<td>Capital Facilities</td>
<td>181,594.00</td>
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<td></td>
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<tr>
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<td>CH Rolunda Roof Replacement</td>
<td>Capital Facilities</td>
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<td></td>
</tr>
<tr>
<td>332404</td>
<td>CH 1st Floor Carpet Replacement</td>
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<tr>
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<td>Innovation Resource Center</td>
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<td>60,000.00</td>
<td>4,367.67</td>
<td>65,967.63</td>
<td>5,317.20</td>
<td>71,317.20</td>
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<td></td>
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</tbody>
</table>

**Total Facilities**

| 5,237,142.00 | 2,806,948.64 | 1,758,814.00 | 367,986.00 | 1,386,572.61 | 2,777,427.05 | 412,447.77 | 215,326.82 | 9,725,722.89 |       |
**TITLE OF DOCUMENT:** Resolution to Elect Expenditures of National Forest Related Safety-Net Payments under PL 112-141

**ATTACHMENTS:** Resolution

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</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.)

Resolution to elect Expenditures of national Forest Related Safety-Net Payments under PL 112-141 (the Act).

**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.
RESOLUTION NO. ________

In the Matter of the Election to Receive National Forest Related Safety-Net Payments Under P.L. 112-141

WHEREAS, Congress enacted in 1908 and subsequently amended a law that requires that 25 percent of the revenues derived from National Forest lands be paid to states for use by the counties in which the lands are situated for the benefit of public schools and roads; and

WHEREAS, the sharing of revenues from the National Forest lands is, in part, a recognition that these lands are not subject to local taxation, and also that counties provide services that directly benefit the lands and the people who use the lands; and

WHEREAS, the principal source of revenues from National Forest lands is from the sale and removal of timber, which has been sharply curtailed in recent years; and

WHEREAS, the volume of timber sold annually from most National Forest lands has declined precipitously, with a corresponding precipitous decline in revenues shared with counties; and

WHEREAS, the United States Congress recognized a need to stabilize education and road maintenance funding through predictable payments to the affected counties, job creation in those counties, and other opportunities associated with restoration, maintenance and stewardship of federal lands, and to achieve those goals enacted P.L. 106-393 in 2000 and amended and reauthorized by P.L. 110-343 (and further amended and reauthorized by P.L. 112-141); and

WHEREAS, P.L. 106-393 provides for guaranteed minimum payments for the benefit of affected counties, as well as an opportunity to invest a portion of the guaranteed minimum payments in projects on federal lands or that benefit resources on federal lands, or in county projects or activities; and
WHEREAS, per Title 1, Section 102 of P.L. 106-393, Whatcom County in Resolution 2001-47 elected to receive the full payment amount from the National Forest lands pursuant to the Act of May 23, 1908 and Section 13 of the Act of March 1, 1911.

WHEREAS, P.L. 112-141 requires each county in which a national forest is located to elect to receive a share of the State payment or a share of the State's 25-percent payment; and

WHEREAS, any county electing to receive a share of the State payment must further elect to expend an amount not less than 15 percent nor more than 20 percent of its full payment amount as project funds in accordance with P.L. 112-141; and

WHEREAS, P.L. 112-141 requires that counties electing to receive a share of the State payment must yearly allocate its project funds for expenditure between projects in accordance with Title II of P.L. 106-393, projects in accordance with Title III of P.L. 106-393, and a return of the balance unspent under Titles II and III to the General Treasury of the United States, and communicate such allocation to the Secretary of the United States Department of Agriculture; and

WHEREAS, Title II of P.L. 106-393 provides for special projects on federal lands or that benefit resources on federal lands, which projects are recommended by local resource advisory committees ("RACs"); and

WHEREAS, RACs recommend projects for consideration by the Secretary of Agriculture, with project funding supplied in whole or in part out of monies allocated for such purposes by participating counties; and

WHEREAS, Title III of P.L. 106-393 provides for county projects or services, some of which are associated with the federal lands, with Title III authorizing expenditures for search, rescue and emergency services, staffing of community service work camps, the purchase of easements, forest related educational opportunities, fire prevention and county planning, and community forestry pursuant to the Cooperative Forest Assistance Act of 1978;

NOW, THEREFORE, be it resolved as follows:

1. Whatcom County hereby elects to receive a share of the State payment under P.L. 112-141.

2. Whatcom County hereby allocates 20 percent of its State payment amount for expenditure on projects under Title II and Title III of P.L. 106-393, P.L. 110.343 and P.L. 112-141. Whatcom County will return none of its payment amounts to
the General Treasury of the United States pursuant to Title I, Section 102(d)(1)(B)(iii).

3. Of the amount allocated to Title II and Title III projects above, hereinafter referred to as the "Project Funds," Whatcom County further allocates between such Titles for federal fiscal year 2013 (for expenditure after federal fiscal year 2013) on the following basis:

- 100 percent of the Project Funds for expenditure on Title II projects.

4. A copy of this Resolution shall be transmitted as rapidly as possible to the Association of Washington Counties with instructions to re-convey the Resolution to the Office of Governor of the State of Washington with a request that the Governor communicate the elections made herein to the Secretary of the United States Department of Agriculture.

ADOPTED this ____ day of October, 2013.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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

APPROVED AS TO FORM:

_______________________________
Civil Deputy Prosecutor
Cedarville and Birch Bay Landfill Lease Agreement.

**ATTACHMENTS:**

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</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.)

Lease Agreement between Sanitary Service Company and Whatcom County for the closed Cedarville and Birch Bay Landfill facilities. The facilities are used as solid waste drop box and recycling centers.

**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, Whatcom County Executive
Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, Director

FROM: Chris C. Brueske P.E., Assistant Director
Debbie Bailey, Solid Waste Coordinator

RE: Cedarville and Birch Bay Transfer Stations Lease Agreement

DATE: September 19, 2013

Enclosed are two (2) originals of the Cedarville and Birch Bay Transfer Station Lease Agreement between Sanitary Service Company and Whatcom County for your review and signature.

- Requested Action
  Public Works respectfully requests that the County Executive enter into a lease agreement with Sanitary Service for the sum of $50.00 per month per site, plus the state leasehold tax of 12.84% (RCW 82.29A.030 and 82.02.030), for a five-year term.

- Background and Purpose
  Whatcom County has closed solid waste landfill facilities located on County-owned property in the Birch Bay and Cedarville areas. The County has determined that it is in the public interest to continue to provide citizens of the County the opportunity to recycle and to dispose of self-hauled waste at the landfill sites, and therefore has leased the facilities to a private company to provide that service. Sanitary Service has held the combined lease for the two facilities since November 2, 1998. Current lease agreement expires October 31, 2013.

- Funding Amount and Source
  Sanitary Service will pay the County for access easements and the use and occupancy of the property the sum of fifty dollars ($50) per month, plus the state leasehold tax, for each site.

- Differences from Previous Contract
  This has been an ongoing agreement with Sanitary Service. The monthly lease amount ($50 per site) is the same as the current agreement, with an additional $6.42 on top of that base rate to cover the required state leasehold tax of 12.84%.

Please contact Debbie Bailey at extension 50292 if you have any questions or concerns regarding the terms of this agreement.

Encl.
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works/Solid Waste Division</th>
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</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Chris Brueske</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Sanitary Service Co.</td>
</tr>
<tr>
<td>Is this a New Contract?</td>
<td>If not, is this an Amendment or Renewal to an Existing Contract? Yes □ No □</td>
</tr>
<tr>
<td>Yes ✔ No □</td>
<td>If Amendment or Renewal, Original Contract #</td>
</tr>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes ✔ No □</td>
</tr>
<tr>
<td>Is this a grant agreement?</td>
<td>Yes □ No ✔ If yes, grantor agency contract number(s) CFDA #</td>
</tr>
<tr>
<td>Is this contract grant funded?</td>
<td>Yes □ No ✔ If yes, associated Whatcom County grant contract number(s)</td>
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<tr>
<td>Is this the result of a RFP or Bid process?</td>
<td>Contract</td>
</tr>
<tr>
<td>Yes □ No ✔</td>
<td>If yes, RFP and Bid number(s) Cost Center: 140201</td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify?</td>
<td>No □ Yes ✔ If no, include Attachment D Contractor Declaration form.</td>
</tr>
<tr>
<td>If yes, indicate exclusion(s) below:</td>
<td></td>
</tr>
<tr>
<td>☐ Professional services agreement for certified/licensed professional</td>
<td>☐ Contract work is for less than 120 days</td>
</tr>
<tr>
<td>✔ Contract less than $100,000.</td>
<td>☐ Contract for Commercial off the shelf items (COTS)</td>
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<tr>
<td>☐ Contract work is all performed outside U.S.</td>
<td>☐ Work related subcontract less than $25,000.</td>
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<tr>
<td>☐ Interlocal Agreement (between Govt's)</td>
<td>☐ Public Works - Local Agency/Federally Funded FHWA</td>
</tr>
<tr>
<td>Contract Amount:(sum of original contract amount and any prior amendments)</td>
<td>Contracts that require Council Approval (incl. agenda bill &amp; memo)</td>
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<tr>
<td>$6,000.00 over 5 years, plus state leasehold tax of 12.84%</td>
<td>• Professional Services Agreement above $20,000.</td>
</tr>
<tr>
<td>This Amendment Amount:</td>
<td>• Bid is more than $40,000.</td>
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<tr>
<td>$</td>
<td>• Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)</td>
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<tr>
<td>Total Amended Amount:</td>
<td>RENEWALS: Council approval is not required when exercising an option to renew that is provided in the original contract.</td>
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</tbody>
</table>

Summary of Scope:
Lease for access easements and the use and occupancy of the closed Cedarville and Birch Bay landfill sites to provide citizens of the County the opportunity to recycle and to dispose of self-hauled waste.

Term of Contract: Five years Expiration Date: October 31, 2018

Contract Routing Steps & Signoff: [sign or initial][indicate date transmitted]
1. Prepared by DB Date 8/30/13 [electronic]
2. Attorney reviewed: Daniel L. Gibson Date 09/03/13 [electronic]
3. AS Finance reviewed: bbennett Date 09/10/13 [electronic]
4. IT reviewed if IT related Date [electronic]
5. Corrections made Date 9/19/13 [summary via electronic; hardcopies]
6. Attorney signoff: Daniel L. Gibson Date 09/03/13 09/14/12
7. Contractor signed: Date 9/19/13
8. Submitted to Exec Office Date 9/27/13
9. Council approved (if necessary) Date
10. Executive signed: Date
11. Contractor Original Returned to dept Date
12. County Original to Date
LICENSE and LEASE AGREEMENT
FOR THE USE OF COUNTY-OWNED PROPERTY FOR
SOLID WASTE DROP BOX FACILITIES

THIS AGREEMENT made and executed on the ______ day of October, 2013, by and
between WHATCOM COUNTY, a municipal corporation hereafter referred to as the "COUNTY" and
SANITARY SERVICE COMPANY INCORPORATED located at 1001 Roeder Avenue, Bellingham,
Washington 98225, hereafter referred to as the "Company".

I. RECITALS

WHEREAS, the solid waste landfill facilities located on County-owned property in the
Cedarville Road area (the Cedarville Landfill) and the Birch Bay area (the Birch Bay Landfill) are now
closed;

WHEREAS, it has been determined by the County that solid waste collection can be
more properly handled by private enterprise; and further, that it is in the public interest to continue to
provide citizens of the County the opportunity to recycle and to dispose of self-hauled waste at the
Cedarville Landfill and Birch Bay Landfill sites; and

WHEREAS, Whatcom County has in existence facilities at the Cedarville Landfill and
Birch Bay Landfill sites suitable for continued operation of solid waste drop box and recycling
facilities; and

WHEREAS, the Company is a franchised hauler which is already operating within the
Cedarville and Birch Bay areas;

NOW, THEREFORE, IT IS UNDERSTOOD AND AGREED:

II. DEFINITIONS

A. "Acceptable Waste" means any and all waste that is "solid waste" as defined in
RCW 70.95.030 except "Unacceptable Waste" as defined hereafter.

B. "Drop Box/Recycling Sites" means the drop box facilities for solid waste and
recyclable materials to be operated by the Company on County property located at the Cedarville
Landfill and Birch Bay Landfill sites.

C. "Effective Date" means the date following the execution of this Agreement by
the Parties when this Agreement is approved by the Whatcom County executive.

D. "Facilities" shall mean the Drop Box/Recycling Sites and the improvements and
equipment located thereon and operated by the Company under the terms of this Agreement.

E. "Force Majeure" means acts of God, landslides, lightning, forest fires, storms,
floods, freezing, earthquakes, civil disturbances, strikes, lockouts or other industrial disturbances,
acts of the public enemy, wars, blockades, public riots, breakage, explosions, or accident to
machinery, pipelines or materials, other cause, whether of the kind enumerated or otherwise, which
is not reasonably within the control of the party claiming the suspension.

F. "Hazardous Waste" shall mean:

1. any dangerous or extremely hazardous waste as defined in Chapter
70.105 RCW or designated by rule adopted thereunder; or

2. waste that is required to be accompanied by a written manifest or
shipping document describing the waste as "hazardous waste" or "dangerous waste," pursuant to
any state or federal law, including but not limited to, the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., and the Model Toxics Control Act, Chapter 70.105CRW, as amended, and the regulations promulgated thereunder; or

3. contains polychlorinated biphenyls or any other substance the storage, treatment, transportation or disposal of which is subject to regulation under the Toxics Substances Control Act, 15 U.S.C. § 2601-2654, as amended, and the regulations promulgated thereunder; or

4. contains a radioactive material the storage, transportation or disposal of which is subject to state or federal regulation.

G. "Property" is the real property owned by the County and indicated in Exhibits "A" and "B" attached hereto.

H. "Solid Waste" shall be as defined by Chapter 70.95 or regulations promulgated thereunder.

I. "Suspicious Waste" is waste which the Company reasonably suspects may be or contains "Unacceptable Waste."

J. "Unacceptable Waste" means any and all waste that is either:

1. Waste which is prohibited from receipt at the Disposal Sites by state, federal or local law, regulation, rule, code, ordinance, order, permit or permit condition; or

2. Hazardous Waste as defined above.

"Unacceptable Waste" shall not include residential waste unless residential waste becomes unacceptable waste or as a result of a change in law, regulation, rule, code, ordinance, order, permit or permit condition which becomes effective after the Effective Date of this Agreement.

III. AGREEMENT

A. Drop Box/Recycling Sites.

1. The County hereby agrees to provide to the Company, access to and control of the County property (the "Property") described on Exhibits "A" and "B" attached hereto and made a part hereto, for the sole purpose of the Company operating and maintaining drop box facilities for the receipt of recyclable materials and acceptable solid waste as set forth herein (the "Facilities") for the convenience of the residents of Whatcom County.

2. The County agrees to provide the Company and its customers access to the Property by non-exclusive assignment of a private easement extending from Cedarville Road to the property boundary and a grant of access over County land through and to the Property, all as shown in Exhibit "A" attached hereto and made a part hereto.

B. Representations/Warranties.

1. The County represents and warrants that it has the right, title and interest in the Property and other properties necessary to grant the Company the right to the access, use and occupancy described under the terms of this Agreement.

2. The County represents and warrants that Property is permitted outright for the operation of the Facility as described in this Agreement and that no additional land use permit is required, provided that access and use of the Facility is provided only to members of the public and not existing franchised solid waste or recycling collection companies.

C. Acceptance of Property
The Company acknowledges that it is familiar with the property and the improvements thereon, that no representations have been made by the County as to said property and improvements except for those representations made in writing contained in this Agreement and the Company hereby accepts said premises and improvements for the purposes of this Agreement as they are now situated.

D. Rent and Term

1. The Company shall pay the County for the access easements and the use and occupancy of the Property for the limited purpose stated in Section A. 1 above, the sum of fifty dollars ($50) for each site per month plus the state leasehold tax of 12.84%, for a total of $56.42 per month, payable in arrears on the 15th day of each month during the period of this Agreement.

2. This Agreement shall be for a period of five (5) years beginning November 1, 2013, with an expiration of October 31, 2018. The agreement of the County shall be manifested by the signature of the County Executive. This Agreement may be terminated by either party, with or without cause, effective no sooner than 30 days after providing the other party notice of that intent in writing in accordance with the notice requirements of this Agreement.

E. Scope of Operation

The Company shall maintain and operate solid waste and recycling drop box facilities (the "Facilities") upon the Property. The Facilities shall be for the use of the general public and businesses and not for the use of commercial franchised solid waste and recycling collection companies. The Company agrees to maintain and operate the Facilities by providing drop boxes for the separation of recyclables, putrescible garbage and other materials that may be agreed upon between the Company and the County.

In performing such functions, the Company shall provide sufficient personnel, equipment and utilities for operation of the Facilities in accordance with this Agreement. Notwithstanding the foregoing:

1. The Company shall make each Facility open and available to the public one day per week during the hours 9:00 a.m. to 5:00 p.m. This schedule may be altered by mutual written agreement if the volume so dictates.

2. In the operation of the solid waste drop boxes, the Company shall not be required to receive, accept or dispose of any suspicious or hazardous waste which would violate local, state or federal environmental laws or regulations. The Company reserves the right to inspect any and all waste and other material delivered to the Facilities and may reject any such material which the Company believes, or the local area health district or State Department of Ecology advises the Company would upon disposal present a significant risk to human health or the environment or create or expose the County, facility users, or the Company to significant potential liability.

3. In the operation of the recycling centers, the Company shall accept, at a minimum, the current inventory of recyclables, including newspaper, mixed paper, cardboard, aluminum, glass (clear, brown, and green), scrap metal and tin cans. The Company may accept other recyclables, upon mutual agreement of the parties. So long as it is legally permitted to do so, the Company also intends to accept vehicle batteries and used oil. It is understood that the County will continue to maintain the existing on-site oil waste tank for disposal of oil to be picked up and transported by others. The Company shall be entitled to salvage any materials remaining in solid waste received for disposal at the Facilities.

4. The Company may refuse the right of access to the Facilities to anyone who has violated rules and regulations prescribed by public law pertinent to the operation of the disposal sites or to the nature of the waste disposed or which they seek to dispose, or is delinquent on account of any money due the Company for acceptance of solid waste or recyclable materials.
The Company may, with the approval of the County, also assess to users of the Facilities a reasonable additional fee or charge as a penalty for failure to comply with the rules and regulations prescribed by the health district or Ecology for solid waste handling.

F. Disposal and Operation Fees.

1. The company shall have authority to establish rates at the Facility for recycling and solid waste disposal, with review and approval by the County as described herein:

a. Not less than sixty (60) days prior to the effective date of a rate adjustment, the Company shall provide a written notice of the proposed rate adjustment to the County, including a written explanation of the basis for such rate adjustment. The County staff shall review such notice and explanation, and forward the proposed rate adjustment for final action to the County Council, whereupon the rate shall be listed in the Whatcom County Unified Fee Schedule, or such other similar public document that county chooses to utilize for publication of rates.

b. If the County for any reason refuses to approve the rate adjustment as requested by the Company, it shall inform the Company in writing of its refusal, whereupon the Company shall have the discretion, at its sole option, of terminating this Agreement upon thirty (30) days written notice to the County.

c. If the County does not inform the Company of a decision to deny the proposed rate adjustment, but otherwise fails to review and approve the proposed rate adjustment within sixty (60) days following the Company’s written notice and explanation to the County of a proposed rate adjustment, the rate adjustment proposed by the Company shall become effective as proposed on the date proposed.

2. Notwithstanding the review and approval process set forth above, on an as-needed basis the Company may reject, or make reasonable additional charges for or fix new or additional rates for the disposal of, solid waste which would result in unusual operating or disposal cost, expense or liability, or require special environmental handling or disposal.

G. Independent Contractor.

In the performance of this Agreement, the Company shall act independently and not as an employee, agent or representative of the County. The County shall have no control or supervision of any kind over the employees of the Company.

H. Maintenance of Facilities/Commit No Waste.

1. Maintenance of the Facilities and the Property shall be the responsibility of the Company. The County shall provide snow removal and sanding maintenance following notification by the Company. Further, the County shall also provide full access maintenance during times when County construction is occurring and make any repairs unless the damage results from negligent acts of the Company. The Company shall be otherwise responsible for routine cleaning maintenance (i.e. removal of obstructions, dust control and spill clean-up) to insure a safe ingress and egress for the public. Further, the County shall be responsible for installation and maintenance of any future water line, utilities or perimeter fence as required.

2. Company covenants not to commit waste nor permit anyone else to commit waste during its possession of the Property and to keep the Property in a neat and orderly condition.
3. The Company further agrees to maintain all County facilities and equipment utilized in accordance with the Agreement in good condition at all times and that the gates and facilities will be secured in the absence of an attendant.

4. The company agrees to provide containers for and properly dispose of all miscellaneous waste on the facility, including but not limited to, used oil waste containers.

I. County’s Right-of-Entry.

The County shall retain the right and the Company shall not interfere with the exercise of the right of the County and its agents and employees to enter into and upon the Property at all reasonable times for the purposes of inspecting the same and for all other lawful purposes, including operation of the portion of the landfill sites on the Property and use of the scales or other facilities for the purpose of disposing of debris and other solid waste materials if it is determined to be in the best interest of the County and necessary for the health and preservation by the Director of Public Works.

J. Notices.

All notices, demands or other writing in this Agreement provided to be given, or sent, or which may be given, made or sent, by either party hereto to the other, shall be deemed to have been fully given, made or sent when mailed to the following address and party:

COUNTY
Whatcom County Public Works Department
322 N. Commercial, Suite 210
Bellingham, WA 98225

COMPANY
Sanitary Service Company, Inc.
P.O. Box 1648
Bellingham, WA. 98227

K. Utilities.

All costs and charges for utilities furnished during the term of this Agreement shall be paid by the Company. Property taxes, if any, shall be the responsibility of the County. The County shall maintain a water tank of similar size to that which now exists on the site for wash downs and fire protection.

L. Liens.

The Company shall keep the Property free from any liens arising out of any work performed, materials furnished or obligations incurred by the Company. In the event the Company becomes insolvent, voluntarily or involuntarily bankrupt, or if a receiver, assignee or other liquidating officer is appointed for the business of the Company, then the County may cancel this Agreement at the County’s option.

M. Sublease and Assignment.

The Company agrees not to let or sublet the whole or any part of its limited interest hereunder in the Property or assign this Agreement or any interest therein without the written consent of the County, which consent shall not be unreasonably withheld.

N. Right of Company to Make Improvements.

The Company may improve or alter the Property for purposes consistent with fulfillment of its obligations under this agreement, with prior written consent of the County. The Company shall, before making any improvements or alterations, submit plans and designs to the County for approval. The Company agrees to maintain the existing facilities in good condition at all times, including but not limited to scales, computers, structures, waste oil tanks and other existing
improvements which exist on the Property as of the date of this Agreement, provided that the Company shall have the right to remove, alter or improve any facility which may be placed upon the Property by the Company during the period of this Agreement; provided further that the Company may remove any improvements that it may install upon the Property during the period of this Agreement within 30 days of the termination of this Agreement. If such improvements are not removed they shall become the property of the County.

O. Reduction or Termination of Service.

During the term of this agreement if Whatcom County takes any legislative or executive action that may cause a reduction in the volume of the waste at the Drop Boxes and/Recycle Facilities, the Company in mutual agreement with the County may reduce the hours of the facility operations or terminate this Agreement. If there are other reasons that may cause a reduction in the volume of waste so that it is no longer feasible to operate, the Company may terminate the agreement upon 30 days written notice to the County.

P. Indemnification and Hold Harmless.

1. The Company agrees and covenants to indemnify, defend and save harmless the County and those persons who were, now are, or shall be duly elected or appointed officials or members or employees thereof (hereinafter referred to as "Whatcom County"), against and from any loss, damage, costs, charge, expense, liability, claims, demand or judgments, of whatsoever kind or nature, whether to persons or property, arising wholly or partially out of any act, action, neglect, omission or default on the part of the Company, its subcontractors and/or employees, except to the extent such injury or damage shall have been caused by or resulted from the negligence, recklessness, or intentional wrongdoing of The County. In case any suit or cause shall be brought against Whatcom County on account of any act, action, neglect, omission or default on the part of the Lessee, his agents, subcontractors, and/or employees, the Company hereby agrees and covenants to assume the defense thereof and to pay any and all costs, charges, attorney fees and other expenses and any and all judgments that may be incurred or obtained against Whatcom County.

2. Whatcom County agrees and covenants to indemnify, defend and save harmless the Company and its officers and directors, against and from any loss, damage, costs, charge, expense, liability, claims, demand or judgments, of whatsoever kind or nature, whether to persons or property, arising wholly or partially out of any act, action, neglect, omission or default on the part of the County, its subcontractors and/or employees, except to the extent such injury or damage shall have been caused by or resulted from the negligence, recklessness, or intentional wrongdoing of the Company. In case any suit or cause shall be brought against the Company on account of any act, action, neglect, omission or default on the part of the County, its agents, subcontractors, and/or employees, Whatcom County hereby agrees and covenants to assume the defense thereof and to pay any and all costs, charges, attorney fees and other expenses and any and all judgments that may be incurred or obtained against the Company.

3. Whatcom County shall indemnify and hold the Company, its officers, directors and shareholders, employees, agents and subcontractors free and harmless from liability from claims, demands, losses, or expenses, including attorneys' fees and costs, with respect to claims by third parties for personal injury, property damage or other loss which arises wholly or partially out of the County's past or current operation, closure or post-closure of the Cedarville Landfill and Birch Bay Landfill, including but not limited to liability or claims arising out of pollution, contamination or release of chemicals or landfill gas. Such indemnity shall not include claims arising as a result of any negligent, reckless, or intentional actions or omissions of the Company, its agents, employees, officers or directors.

4. In the event of any suit against any party indemnified under this Agreement, the indemnifying party shall appear and defend such suit provided that the indemnifying party is notified in a timely manner of the suit. The indemnified party shall have the right to approve counsel chosen by the indemnifying party to litigate such suit which approval shall not be unreasonably withheld.

Contract for Services Agreement
SSC Landfill Lease Agreement
Q. Insurance.

1. The Company shall maintain in effect throughout the term of this Agreement, or any renewal thereof, personal injury liability insurance covering the Property and its appurtenances in the amount of $1,000,000.00 for injury or death of any one person and $1,000,000.00 for injury to or death of any number of persons in one occurrence, and property damage liability insurance in the amount of $500,000.

2. The Company shall file proof of such insurance with the County prior to occupancy of the Property.

R. Laws and Regulations.

The Company agrees to conform to and abide by all lawful rules, codes, laws and regulations in connection with the use of the Property and the construction of improvements and operation of the Company's business thereon and not to permit said Property to be used in violation of any lawful rule, code, law, regulation or other authority. Further, the Company shall obtain all necessary permits and licenses for the use and occupancy of the Property.

S. Mediation.

Notice of the demand for mediation shall be filed in writing with the other party to this agreement. The demand for mediation shall be made within a reasonable time after the claim. The act of mediation between the Company and the County shall be between one designee provided by the Company and one designee provided by the County and one neutral mediator agreed upon by both parties. The decision of the mediators shall be binding upon both parties.

T. Force Majeure.

Neither the Company nor the County will be liable for failure to perform its part of the Agreement when the failure is due to fire, flood, road closures, strikes or other industrial disturbances, inevitable accident, war, riot, insurrection, acts of God or for any other cause beyond the reasonable control and without the fault or negligence of either the County or the Company. But, in any case, the party claiming the benefit if this provision shall use due diligence to remove any such causes and to resume performance under the agreement as soon as is feasible.

U. Interpretation and Venue.

This Agreement shall be at all times interpreted under and in accordance with the laws of the State of Washington, and venue and jurisdiction of any suit brought to enforce any of the terms shall be in Whatcom County, Washington.
IN WITNESS WHEREOF, the parties have signed this agreement this _____ day of __________, 2013

SANITARY SERVICE COMPANY INC.

By: Paul Razore
Title: President

STATE OF WASHINGTON
COUNTY OF WHATCOM ) ss.

On this 10th day of September, 2013, before me personally appeared Paul Razore, to me known to be the person individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

GIVEN under my hand and official seal this 10th day of September, 2013.

NOTARY PUBLIC in and for the State Of Washington, residing at Belltown.
My commission expires: 6-21-17.

WHATCOM COUNTY

JACK LOUWS
County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss.

On this _____ day of __________, 2013, before me personally appeared JACK LOUWS, to me known to be the person individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

GIVEN under my hand and official seal this _____ day of __________, 2013.

NOTARY PUBLIC in and for the State of Washington, residing at ________
My commission expires: _________.

APPROVED AS TO FORM:

Daniel L. Gibson, Chief Civil Deputy Prosecutor

DEPARTMENTAL APPROVAL:

Frank M. Abart, Director, Public Works

Contract for Services Agreement
SSC Landfill Lease Agreement

Page 8

v 1.0
EXHIBIT A

MAP OF PRIVATE EASEMENT AND EASEMENT OVER COUNTY PROPERTY SERVING SOLID WASTE DROP-BOX FACILITY

PRIVATE EASEMENT (30 FT. WIDE)

ACCESS OVER COUNTY PROPERTY NOMINAL 30 FT. WIDE

APPROXIMATE LIMIT OF ACTIVE CEDARVILLE LANDFILL

APPROXIMATE LIMIT OF OLD LANDFILL

COUNTY PROPERTY BOUNDARY

APPROXIMATE BOUNDARY OF SUBJECT PROPERTY

CEDARVILLE
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS 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
Hub International NW/HCJ
PO Box 3018
Bothell, WA 98041-3018
Bill Bates

INSURED
Sanitary Service Co., Inc.
Recycling Services, Inc.
Blaine-Bay Refuse, Inc.
P. O. Box 1702
Bellingham, WA 98227

CONTACT
425-489-4500
425-489-4501
FACE (Add, No Ext.):
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE
INSURER A: Alaska National Insurance Co. 38733
INSURER B: Houston Casualty Company
INSURER C: Navigators Insurance Company
INSURER D:
INSURER E:
INSURER F:

COVERAGES

COVERAGE NUMBER: 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.

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

CERTIFICATE HOLDER AND ANY OTHER ENTITIES IF REQUIRED BY WRITTEN CONTRACT/AGREEMENT ARE ADDED AS ADDITIONAL INSURED PER FORMS ATTACHED.

CERTIFICATE HOLDER
Whatcom County Solid Waste
322 N. Commercial St. #220
Bellingham, WA 98225

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

CANCELLATION

AUTHORIZED REPRESENTATIVE

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# Certificate of Liability Insurance

**Producer:**
Hub International NW/HCJ
PO Box 3018
Bothell, WA 98041-3018
Bill Bates

**Contact:**
425-489-4500
425-489-4501

**Insured:**
Sanitary Service Co., Inc.
Recycling Services, Inc.
Blaine-Bay Refuse, Inc.
P. O. Box 1702
Bellingham, WA 98227

**Insurer(s) Affording Coverage:**
- Alaska National Insurance Co.
  - NAIC # 38733
- Insurer A:
- Insurer B:
- Insurer C:
- Insurer D:
- Insurer E:
- Insurer F:

## Coverages

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## Revisions

- Each Occurrence: $ [Value]
- Damage to Rented Premises (Excluded): $ [Value]
- Med Exp (Any one person): $ [Value]
- Personal & Adv Injury: $ [Value]
- General Aggregate: $ [Value]
- Products - Compo Prop A:
- Property Damage (Per Accident): $ [Value]

## Description of Operations / Locations / Vehicles

- Pick ups & Private Passenger $500 Ded. Comp/$1,000 Ded. Coll. All other: $1,000 Ded. Comp/$1,000 Ded. Coll. Certificate Holder is Loss Payee.

## Certificate Holder

Whatcom County Solid Waste
Attn: Debbie Bailey
322 N. Commercial #220
Bellingham, WA 98225

## 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

© 1988-2010 ACORD CORPORATION. All rights reserved.
BUSINESS AUTO COVERAGE ENHANCEMENT ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

Various provisions in this endorsement restrict coverage. Read the entire policy carefully to determine rights, duties, and what is and is not covered.

Throughout this policy, the words “you” and “your” refer to the Named Insured shown in the Declarations. The words “we”, “us”, and “our” refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION V - DEFINITIONS in the Business Auto Coverage Form.

The coverages provided by this endorsement apply per “accident” and, unless otherwise specified, are subject to all of the terms, conditions, exclusions and deductible provisions of the policy, to which it is attached.

SECTION II - LIABILITY COVERAGE, Paragraph A.1. Who Is An Insured is amended to include:

d. Any “employee” of yours while operating an “auto” hired or rented under a contract or agreement in that “employee’s” name, with your permission, while performing duties related to the conduct of your business.

e. Any person or organization for whom you have agreed in writing to provide insurance such as is afforded by this Coverage Form, but only with respect to liability arising out of the ownership, maintenance or use of “autos” covered by this policy. If such person or organization has other insurance then this insurance is primary to and we will not seek contribution from the other insurance.

SECTION IV - Business Auto Conditions, Paragraph A. 5. - Transfer of Rights of Recovery Against Others To Us is amended to include:

5. Transfer of Rights of Recovery Against Others to Us

This condition does not apply to any person(s) or organization(s) to the extent that subrogation against that person or organization is waived prior to the “accident” or the “loss” under a contract with that person or organization.

SECTION II - LIABILITY COVERAGE, Paragraph A.2.a. (2) - Supplementary Payments is replaced by the following:

(2) Up to $10,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an “accident” we cover. We do not have to furnish these bonds.

SECTION II - LIABILITY COVERAGE, Paragraph A.2.a. (4) - Supplementary Payments is replaced by the following:

(4) All reasonable expenses incurred by the insured at our request, including actual loss of earnings up to $500 a day because of time off from work.
SECTION II – LIABILITY COVERAGE, Paragraph A.2.c. – Voluntary Property Damage is added as follows:

c. Voluntary Property Damage

At your written request, we may make a voluntary payment for Property Damage caused by an “insured”, but without liability to a third party, up to $25,000. We will not make a Voluntary Property Damage payment to anyone who is an “insured” under this policy.

SECTION III – PHYSICAL DAMAGE COVERAGE, Paragraph A.2. – Towing is replaced by the following:

Towing

We will pay up to $500 for towing and labor costs incurred each time a covered “auto” that is a:

a. Private passenger;
b. Truck;
c. Pick-up truck;
d. Panel; or
e. Van

type vehicle under 20,000 lbs. of Gross Vehicle Weight is disabled. However, the labor must be performed at place of disablement.

SECTION III – PHYSICAL DAMAGE COVERAGE, Paragraph A.3. – Glass Breakage – Hitting a Bird or Animal – Falling Objects or Missiles is replaced by the following:

Glass Breakage – Hitting a Bird or Animal – Falling Objects or Missiles

If you carry Comprehensive Coverage for the damaged covered “auto”, we will pay the following under Comprehensive Coverage:

a. Glass Breakage;
b. “Loss” caused by hitting a bird or animal; and
c. “Loss” caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered “auto’s” collision or overturn considered a “loss” under Collision Coverage.

Glass Repair – Waiver of Deductible

No deductible applies to glass breakage, if the glass is repaired rather than replaced.

SECTION III – PHYSICAL DAMAGE COVERAGE, Paragraph A.4.a. – Transportation Expenses is replaced by the following:

a. Transportation Expenses

We will pay up to $200 per day to a maximum of $1,500 for temporary transportation expense incurred by you because of the total theft of a covered “auto” that is a:

(1) Private passenger;
(2) Truck;
(3) Pick-up truck;
(4) Panel; or
(5) Van

type vehicle under 20,000 lbs. of Gross Vehicle Weight. We will pay only for those covered “autos” for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy’s expiration, when the covered “auto” is returned to use or we pay for its “loss”. 
SECTION III – PHYSICAL DAMAGE COVERAGE,
Paragraph A.4.b. – Loss of Use Expenses is replaced by the following:

b. Loss of Use Expenses – Hired, Rented, or Borrowed Automobiles

We will pay expenses for which an “insured” becomes legally responsible to pay for loss of use of a vehicle hired, rented or borrowed without a driver under a written rental contract or agreement. We will pay for loss of use expenses, if caused by:

(1) Other than Collision, only if the Declarations indicate that Comprehensive Coverage is provided for the vehicle withdrawn from service.

(2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for the vehicle withdrawn from service.

(3) Collision only if the Declarations indicate that Collision Coverage is provided for the vehicle withdrawn from service.

However, the most we will pay for any expenses for loss of use is $200 per day, to a maximum of $1,500.

SECTION III – PHYSICAL DAMAGE COVERAGE,
Paragraph A.4.c. – Non-Transportation Loss of Use Expenses is added as follows:

c. Non-Transportation Loss of Use Expenses

We will pay up to $2,000 for non-transportation expense incurred by you, because of “loss” to a covered “auto”, if caused by:

(1) Other than Collision, only if the Declarations indicate that Comprehensive Coverage is provided for the “auto” withdrawn from service;

(2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for the “auto” withdrawn from service; or

(3) Collision only if the Declarations indicate that Collision Coverage is provided for the “auto” withdrawn from service.

SECTION III – PHYSICAL DAMAGE COVERAGE,
Paragraph A.4.d. – Airbag Coverage is added as follows:

d. Airbag Coverage

We will pay for the cost to repair, replace, or reset an airbag that inflates for any reason other than as a result of a collision, if the Declarations indicate that the covered “auto” has Comprehensive Coverage or Specified Causes of Loss Coverage.

SECTION III – PHYSICAL DAMAGE COVERAGE,
Paragraph A.4.e. – Rental Reimbursement Coverage is added as follows:

e. Rental Reimbursement Coverage

We will pay up to $75 per day for rental reimbursement expenses incurred by you for the rental of an “auto” because of “loss” to a covered “auto” that is a:

(1) Private Passenger;

(2) Truck;

(3) Pick-up truck;

(4) Panel; or

(5) Van

type vehicle under 20,000 lbs. of Gross Vehicle Weight. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered “auto”. No deductibles apply to this coverage.
(1) We will pay only for those expenses incurred during the policy period beginning 24 hours after the “loss” and ending, regardless of the policy’s expiration, with the lesser of the following number of days:

(a) The number of days reasonably required to repair or replace the covered “auto”.

(b) 30 days.

(2) This coverage does not apply while there are spare or reserve “autos” available to you for your operations.

(3) The Rental Reimbursement Coverage described above does not apply to a covered “auto” that is described or designated as a covered “auto” on Rental Reimbursement Coverage Form CA 99 23.

SECTION IV – BUSINESS AUTO CONDITIONS – Paragraph B.5.b. – Other Insurance is replaced by the following:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered “autos” you own:

(1) Any covered “auto” you lease, hire, rent, or borrow; and

(2) Any covered “auto” hired or rented by your “employee” under a contract in that individual “employee’s” name, with your permission, while performing duties related to the conduct of your business.

However, any “auto” that is leased, hired, rented or borrowed with a driver is not a covered “auto”.

SECTION V – DEFINITIONS – Paragraph C. – “Bodily injury” is replaced by the following:

C. “Bodily injury” means bodily injury, sickness or disease sustained by a person including death or mental anguish resulting from any of these. Mental anguish means any type of mental or emotional illness or disease.
BLANKET WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

We waive any right of recovery we may have against any person or organization as required in a written contract because of payments we make for injury or damage arising out of "your work" done under the written contract.

The waiver applies only to the person or organization required by the written contract and then only if the contract requires you to obtain this agreement from us.

This endorsement changes the policy to which it is attached and, unless otherwise stated, is effective on the date issued at 12:01 A.M. standard time at your mailing address shown in the policy. The information below is required only when this endorsement is issued subsequent to commencement of the policy.

Endorsement Effective

Insured

Countersigned By

Policy No.

Endorsement No. 2

ANIC GL 702 04 12
BLANKET ADDITIONAL INSURED ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

WHO IS AN INSURED (Section II) is amended to include as an insured any person or organization (herein referred to as an additional insured), but only if you are required to add that person or organization as an insured to this policy by a written contract that is in effect prior to the "bodily injury", "property damage", or "personal and advertising injury".

The insurance provided to the additional insured is limited as follows:

1. That person or organization is only an additional insured for its vicarious liability for your acts or omissions in the performance of "your work".

2. The insurance provided to the additional insured does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including:
   a. the preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, design or specifications; and
   b. supervisory, inspection, or engineering services.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated. The information below is required only when this endorsement is issued subsequent to preparation of the policy.

Endorsement Effective

Insured

Countersigned By ___________________________
### 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>9-26-13</td>
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**TITLE OF DOCUMENT:**

Contract for Services with Kulshan Environmental Services

**ATTACHMENTS:**

- Cover memorandum

**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.)

The proposed contract provides consulting services to develop and implement a stakeholder involvement process and facilitate stakeholder meetings for the development of a System-wide Improvement Framework for the Nooksack River levee system.

**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: Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Frank Abart, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
       Chris Brueske, Assistant Director

RE: Contract for Services with Kulshan Environmental Services

DATE: September 25, 2013

Enclosed are two (2) originals of a Contract for Services between the Whatcom County Flood Control Zone District (FCZD) and Kulshan Environmental Services for your review and signature.

- **Background and Purpose**
  The FCZD has initiated the development of a System-wide Improvement Framework (SWIF) to address the deficiencies identified for the Nooksack River levees by the US Army Corps of Engineers (USACE). The SWIF must be submitted to the USACE by June of 2015 for the levees to remain eligible for rehabilitation in the Public Law (PL) 84-99 program. Interagency coordination is required as part of the SWIF development process. The proposed agreement provides consulting services to develop and implement a stakeholder involvement process with representatives from the resource agencies, USACE, diking districts and subzones. Additional consultant contracts for hydraulic modeling and engineering and geomorphic analyses to support the SWIF development process will be brought forward in the near future.

- **Funding Amount and Source**
  The proposed contract amount is $44,460 and the funding source is the FCZD fund. The Puget Sound Partnership will be providing $300,000 for the Whatcom County SWIF project and expenditures under this agreement can be reimbursed once the grant agreement is in place.

Please contact Paula Cooper at extension 50625, 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>Public Works</th>
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<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Paula Cooper</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Kulshan Environmental Services</td>
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</tbody>
</table>

**Is this a New Contract?**
Yes _x_ No ___
If not, is this an Amendment or Renewal to an Existing Contract? Yes ___ No ___

**Does contract require Council Approval?**
Yes _x_ No ___

**Is this a grant agreement?**
Yes ___ No _x___
If yes, grantor agency contract number(s) ______________ CFDA # __________________

**Is this contract grant funded?**
Yes _x_ No ___
If yes, associated Whatcom County grant contract number(s) ___________ TBD __________________

**Is this the result of a RFP or Bid process?**
Yes _x_ No ___
If yes, RFP and Bid number(s) _13-01__ Cost Center: _713001________________

**Is this agreement excluded from E-Verify?**
No ___ Yes _x_ If no, include Attachment D Contractor Declaration

**If yes, indicate exclusion(s) below:**
- Professional services agreement for certified/licensed professional
- Contract work is for less than 120 days
- Contract less than $100,000.
- Contract for Commercial off the shelf items (COTS)
- Work related subcontract less than $25,000.
- Interlocal Agreement (between Gov’t)
- Public Works - Local Agency/Federally Funded FHWA

**Contract Amount:** (sum of original contract amount and any prior amendments)
$ 44,469.00

**This Amendment Amount:**

**Total Amended Amount:**

**Contracts that require Council Approval (incl. agenda bill & memo):**
- Professional Services Agreement above $20,000.
- Bid is more than $40,000.
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

**RENEWALS:** Council approval is not required when exercising an option to renew that is provided in the original contract.

**Summary of Scope:**
The proposed contract provides consulting services to develop and implement a stakeholder involvement process and facilitate stakeholder meetings for the development of a System-wide Improvement Framework for the Nooksack River levee system.

**Term of Contract:**
_6-30-15_

**Expiration Date:**

**Contract Routing Steps & Signoff:** [sign or initial][indicate date transmitted]
1. Prepared by: Paula Cooper Date 9-17-13 [electronic]
2. Attorney reviewed: Daniel L. Gibson Date 09/17/13 [electronic]
3. AS Finance reviewed: _[Signature]_ Date 09/23/13 [electronic]
4. IT reviewed if IT related __________ Date __________ [electronic]
5. Corrections made: __________ Date __________ [electronic] hard copy printed
6. Attorney signoff: Daniel L. Gibson ____________ Date 09/17/13 9-25-13
7. Contractor signed: __________ Date 9-25-13
8. Submitted to Exec Office __________ Date 9-27-13 [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 __________
CONTRACT FOR SERVICES
Facilitation Services for System-Wide Improvement Framework

Kulshan Environmental Services, 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 10,
- Exhibit B (Compensation), pp. 11 to 11,
- 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 9th day of August, 2013, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June, 2015.

The general purpose or objective of this Agreement is to develop and implement a stakeholder involvement process and provide facilitation services for development of the Nooksack River System-Wide Improvement Framework, as more fully and definitively described in Exhibit A hereeto. 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 $44,460. 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:

Kulshan Environmental Services

[Signature]

David Roberts, Principal

STATE OF WASHINGTON

COUNTY OF [Whatcom]

On this 9th day of August, 2013, before me personally appeared David Roberts, to me known to be the Principal of Kulshan Environmental Services and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

[Signature]

NOTARY PUBLIC in and for the State of Washington, residing at [Address]. My commission expires [Expiration Date].
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT:
Recommended for Approval:

Frank Abart, Public Works Director Date

Approved as to form:

Daniel L. Gibson Date
Daniel L. Gibson, Prosecuting Attorney

Approved:
Accepted for Whatcom County:

By: __________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
) ss
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:

Kulshan Environmental Services
(Type in Name of Contractor/Firm)

David Roberts, Principal
(Type in Name & Title of Signatory Authorized by Firm Bylaws, if applicable)

Address:
2012 Edgefield Drive
Bellingham, WA 98229

Mailing Address:
2012 Edgefield Drive
Bellingham, WA 98229

Contact Name: David Roberts
Contact Phone: (360)483-7341
Contact FAX: None
Contact Email: David@KulshanServices.com

Contract for Services SWIF Facilitation

v 1.0
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: Not Applicable

11.2 Termination for Reduction in Funding: Not Applicable

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 entitled 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:** Not Applicable

**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.

31.1 **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.

31.2 **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:**
Contract for Services SWIF Facilitation
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:
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, 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: 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:

Paula Cooper
River and Flood Manager
Whatcom County Public Works
322 N Commercial Street, Suite 120
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:
The Contractor further certifies, by executing this contract, that neither it nor its principles is presently debarred, suspended, proposal for debarment, delcared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or Agency.
The Contractor also agrees that it shall not knowingly enter into any lower tier covered transactions (a transaction between the Contractor and any other person) with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, and the Contractor agrees to include this clause titled "Certification Regarding Federal Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" without modification, in all lower tier covered transactions and in all solicitations for lower tier transactions.

The "General Service Administration List of Parties Excluded from Federal Procurement or Non-procurement Programs" is available to research this information at http://epis.arnet.gov.

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 shall be in the courts of the State of Washington 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)

Kulshan Environmental Services will provide the following services in support of the development of the System Wide Improvement Framework Plan development:

Task 1: Develop outline of SWIF process and timeline
Assist County staff with development of a process for stakeholder engagement and decision making needed to develop a System-wide Improvement Framework that meets ACOE requirements by June 15, 2013.

Task 2: Develop letter inviting potential participants in the SWIF process.
Draft an invitation letter for County staff to send to potential participants in the SWIF Team.

Task 3: Complete interviews of participants (13 assumed).
Prior to the Foundation meeting (see below) interview each of the participants in the SWIF Team process to determine their experience with negotiated processes, their understanding of the SWIF process and issues, and their expectations and concerns related to the development of the SWIF plan.

Task 4: Facilitate SWIF Team Meetings
Task 4a: SWIF Team Foundation meeting (one meeting)
1) Meeting facilitation – The Foundation meeting will be facilitated by PDSA Consultants under a subcontract to Kulshan Environmental Services. The meeting will be used to establish a framework for success across the diverse stakeholders. This includes developing a sense of team including common purpose, operating protocols, and open and honest communication resulting in collaborative decision making for the purpose of satisfying the USACE’s System-wide Improvement Framework.
2) Meeting assistance and notes – Assist with logistics for the Foundation meeting. Record agreements and outcomes, and circulate to SWIF team. (Kulshan Environmental Services)

Task 4b: SWIF Team regular meetings (8 meetings assumed)
1) Meeting facilitation – Provide meeting facilitation services to implement the project plan. Assist consultants with the development of the SWIF plan. Coordinate meeting schedules and deliverables with County staff, SWIF Team and Support Teams. Develop products and documents as appropriate as result of Team discussions.
2) Meeting notes – Record agreements and outcomes of the SWIF Team meetings. Coordinate review of notes with County staff. Circulate draft and final notes to SWIF team.

Task 5: Facilitate Support Team Meetings (10 meetings assumed)
1) Meeting facilitation – Provide Support Teams with meeting facilitation services to complete specific project elements as requested by County staff. Assist consultants with the development of the SWIF plan. Coordinate meeting schedules and deliverables with County staff, Support Teams and consultants. Develop products and documents as appropriate as result of Team discussions.

Task 6: Coordination with County and Consultants
1) Support for the Contract administrator including additional strategy meetings, research, and document preparation other than notes, or other services deemed appropriate.
2) Coordinate with County and consultants to ensure a high level of communication, transfer of information, and smooth completion of the project.
Contingency: The contingency task and budget are provided to address unanticipated needs as they arise throughout the project. Any work proposed under the contingency task must be authorized by e-mail by the County project manager prior to initiating the work. The request for authorization should include a description of the scope of services to be performed and the amount of the contingency budget allocated.
### EXHIBIT "B"
(Compensation)

#### Hourly Labor Costs:

<table>
<thead>
<tr>
<th>Task #</th>
<th>Task Description</th>
<th>David Roberts Hourly Rate ($/hr)</th>
<th>Todd Eastman Hourly Rate ($/hr)</th>
<th>Allison Roberts Hourly Rate ($/hr)</th>
<th>Hourly Labor Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Develop outline of process and timeline</td>
<td>$110/HR</td>
<td>$75/HR</td>
<td>$45/HR</td>
<td>$1,112.50</td>
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<td>2</td>
<td>Develop letter inviting potential participants in the SWIF process</td>
<td>1</td>
<td>0.5</td>
<td>0.5</td>
<td>$170.00</td>
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<tr>
<td>3</td>
<td>Complete interviews with participants (13 assumed), includes follow-up mtg on results with county staff.</td>
<td>22.5</td>
<td>20.5</td>
<td>3</td>
<td>$4,147.50</td>
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<tr>
<td>4a</td>
<td>SWIF Team Foundation meeting</td>
<td>5</td>
<td>5</td>
<td></td>
<td>$925.00</td>
</tr>
<tr>
<td>4b</td>
<td>SWIF Team meetings (8 meetings assumed)</td>
<td>64</td>
<td>56</td>
<td></td>
<td>$11,240.00</td>
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<tr>
<td>5</td>
<td>Support Team meetings (10 assumed)</td>
<td>80</td>
<td>70</td>
<td></td>
<td>$14,050.00</td>
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<tr>
<td>6</td>
<td>Monthly coordination with County, Participants and Consultants</td>
<td>45</td>
<td>21</td>
<td></td>
<td>$6,525.00</td>
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#### Direct Costs:

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<tr>
<th>Task #</th>
<th>Task Description</th>
<th>Description</th>
<th>Unit cost</th>
<th># of units</th>
<th>Total cost</th>
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<tbody>
<tr>
<td>3</td>
<td>Mileage</td>
<td>0.565</td>
<td>195</td>
<td>$110.18</td>
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#### TOTAL TASK COST

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<tr>
<th>Task #</th>
<th>Task Description</th>
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<tr>
<td>1</td>
<td>Develop outline of process and timeline</td>
<td>$1,112.50</td>
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<tr>
<td>2</td>
<td>Develop letter inviting potential participants in the SWIF process</td>
<td>$170.00</td>
</tr>
<tr>
<td>3</td>
<td>Complete interviews with participants (13 assumed), includes follow-up mtg on results with county staff.</td>
<td>$4,257.68</td>
</tr>
<tr>
<td>4a</td>
<td>SWIF Team Foundation meeting</td>
<td>$3,425.00</td>
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<tr>
<td>4b</td>
<td>SWIF Team meetings (8 meetings assumed)</td>
<td>$11,640.00</td>
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<td>5</td>
<td>Support Team meetings (10 assumed)</td>
<td>$14,050.00</td>
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<tr>
<td>6</td>
<td>Monthly coordination with County, Participants and Consultants</td>
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#### TOTAL ESTIMATED COST

<table>
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<tr>
<th></th>
<th>TOTAL ESTIMATED COST</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>$50,000.00</td>
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</tbody>
</table>

### Contingency Budget

|             | $8,819.82             |

### NOTE:

Tasks 1 through 3 were initiated under a separate Purchase Order #79177 and are not included in the budget for this agreement.

As consideration for the services provided pursuant to Exhibit A, Scope of Work, the County agrees to compensate the Contractor according to the hourly rates provided above. These rates may be adjusted with the County’s approval annually. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed as described here:

- Mileage will be reimbursed at IRS rate
- Lodging and per diem reimbursement will be at a rate not to exceed the GSA rate for location services are provided
- Reimbursement for air travel will be at coach rates
- Subconsultants, materials purchased and equipment rented specifically for the project shall be reimbursed at cost
- Other expenditures such as outside printing and postage shall be reimbursed at actual cost
- In house computer usage and domestic and long distance telephone charges shall be at no cost.

Contractor will invoice monthly. Invoices will include hours worked by employee by task, during the billing period. Requests for reimbursement of expenses must be accompanied by copies of paid invoices itemizing costs incurred. Costs of alcoholic beverages are not eligible for reimbursement. Compensation shall not exceed the contract amount.

Any work performed prior to the effective date of this contract or continuing after the completion date of the same unless otherwise agreed upon in writing, will be at the Contractor’s expense.
# 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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</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>PJ</td>
<td>9/17/13</td>
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<td>10/08/13</td>
<td>Finance</td>
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<tr>
<td>Division Head:</td>
<td>D. N.</td>
<td>9/12/13</td>
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<td>10/8/13</td>
<td>Council</td>
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<tr>
<td>Dept. Head:</td>
<td></td>
<td>9/25/13</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Prosecutor:</td>
<td>J. G.</td>
<td>9/26/13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>R. A.</td>
<td>9/26/13</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** Coordinated Prevention Grant Agreement between State of Washington Department of Ecology and Whatcom County.

**ATTACHMENTS:**
1. 2 copies of grant agreement
2. Info Sheet
3. Memo

<table>
<thead>
<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>
</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.)

This is a two year grant of $154,740 from Washington State Department of Ecology for solid waste compliance management and littering and illegal dumping enforcement activities. This grant has been a continuous source of solid waste program funding since 1996. The grant requires a 25% local match which is to be funded by the existing Solid Waste Disposal Tax.

**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).
MEMORANDUM

TO: Jack Louws, County Executive

FROM: Regina A. Delahunt, Director

RE: Department of Ecology 2013 – 2015 Coordinated Prevention Grant

DATE: September 20, 2013

Enclosed are two (2) originals of a grant agreement between Washington Department of Ecology and Whatcom County for your review and signature.

- **Background and Purpose**
  The Coordinated Prevention Grant, which has been a continuous source of solid waste program funding since 1996, provides funding for solid waste compliance management and littering and illegal dumping enforcement services.

- **Funding Amount and Source**
  The 2013-2015 grant (24 month term) provides $154,740 in state funds to be matched with $51,580 in local funds provided by the existing Solid Waste Disposal Tax. This agreement requires Council approval because the local match funding required exceeds $5,000. An agenda bill is attached.

- **Differences from Previous Contract**
  The 2012-2013 18-month grant provided $192,792 in state funds; the new grant is for a 24 month period and provides $154,740 representing a decrease in funding. However, the previous grant funding was supplemented by an amendment ($104,164 initially with a $88,628 amendment) which is likely during this grant period as well.

Please contact Jeff Hegedus at extension 50895 if you have any questions regarding this agreement.

Encl.
WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Department of Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Jeff Hegedus</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Washington Department of Ecology</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 Amendment or Renewal, Original Contract #
- Does contract require Council Approval? Yes ☒ No □

**Is this a grant agreement?**
- Yes ☒ No □
- If yes, grantor agency contract number(s) G1400096 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 ☒
- If yes, RFP and Bid number(s)
- Cost Center: 655200

**If yes, indicate exclusion(s) below:**
- Professional services agreement for certified/licensed professional
- Contract work is for less than 120 days
- Contract less than $100,000.
- Contract for Commercial off the shelf items (COTS)
- Contract work is all performed outside U.S.
- Work related subcontract less than $25,000.
- Interlocal Agreement (between Govt’s)
- Public Works - Local Agency/Federally Funded FHWA

**Contract Amount:**
- (sum of original contract amount and any prior amendments)
  - $154,740

**This Amendment Amount:**
- $

**Total Amended Amount:**
- $

**Contracts that require Council Approval (incl. agenda bill & memo)**
- Professional Services Agreement above $20,000.
- Bid is more than $40,000.
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

**RENEWALS:** Council approval is not required when exercising an option to renew that is provided in the original contract.

**Summary of Scope:** The Coordinated Prevention Grant, which has been a continuous source of solid waste program funding since 1996, provides funding for solid waste compliance management and littering and illegal dumping enforcement services.

**Term of Contract:** Two Year
**Expiration Date:** 6/30/2015

<table>
<thead>
<tr>
<th>Contract Routing Steps &amp; Signoff</th>
<th>Sign or Initial</th>
<th>Indicate date transmitted</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prepared by:</td>
<td>PJ</td>
<td>Date: 7/19/2013</td>
</tr>
<tr>
<td>2. Attorney reviewed:</td>
<td>Gallery</td>
<td>Date: 9/25/13</td>
</tr>
<tr>
<td>3. AS Finance reviewed:</td>
<td></td>
<td>Date: 9/25/13</td>
</tr>
<tr>
<td>4. IT reviewed, if IT related:</td>
<td></td>
<td>Date:</td>
</tr>
<tr>
<td>5. Corrections made:</td>
<td></td>
<td>Date:</td>
</tr>
<tr>
<td>6. Attorney signoff:</td>
<td>Gallery</td>
<td>Date: 9/25/13</td>
</tr>
<tr>
<td>7. Contractor signed:</td>
<td></td>
<td>Date:</td>
</tr>
<tr>
<td>8. Submitted to Exec Office:</td>
<td></td>
<td>Date: 9-25-13</td>
</tr>
<tr>
<td>9. Council Approved (if required):</td>
<td></td>
<td>Date:</td>
</tr>
<tr>
<td>10. Executive signed:</td>
<td></td>
<td>Date:</td>
</tr>
<tr>
<td>11. Contractor original returned to Dept.:</td>
<td></td>
<td>Date:</td>
</tr>
<tr>
<td>12. County original to Council:</td>
<td></td>
<td>Date:</td>
</tr>
</tbody>
</table>
COORDINATED PREVENTION GRANT (CPG) AGREEMENT

BETWEEN THE

STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

WHATCOM COUNTY HEALTH DEPARTMENT

Grant No. G1400096
This is a binding agreement entered into by and between the State of Washington, Department of Ecology, hereinafter referred to as the "DEPARTMENT" or as "ECOLOGY" and the Whatcom County Health Department, hereinafter referred to as the "RECIPIENT" to carry out with the provided funds activities described herein.

**JURISDICTION:** Whatcom County Health Department

**MAILING ADDRESS:** 509 Girard Street

**CITY, STATE, ZIP:** Bellingham, WA 98225

**RECIPIENT GRANT COORDINATOR:** Jeff Hegedus, RS/ Environmental Health Supervisor

**TELEPHONE:** 360-676-6724 ext 50895

**E-MAIL:** jhegedus@co.whatcom.wa.us

**RECIPIENT BILLING/INVOICE COORDINATOR:** Harriet Bouwman, Account Clerk II

**TELEPHONE:** 360-676-6724 ext 50816

**E-MAIL:** hbouwman@co.whatcom.wa.us

**ECOLOGY:** Diana Wadley

**TELEPHONE:** 425-649-7056

**E-MAIL:** Diana.Wadley@ecy.wa.gov

**FUNDING SOURCE:** Local Toxics Control Account

**MAXIMUM ELIGIBLE COST:** $206,320

**STATE GRANT SHARE:** $154,740

**LOCAL SHARE:** $51,580

**STATE MAXIMUM GRANT PERCENT:** 75%

**FEDERAL TAX IDENTIFICATION NO.:** 91-6001383

**EFFECTIVE DATE OF THE AGREEMENT:** 07-01-2013

**EXPIRATION DATE OF THE AGREEMENT:** 06-30-2015
PART 1: SCOPE OF WORK

The task(s) set forth below summarize the RECIPIENT’S activities to be performed under this agreement. Costs are limited to those approved by ECOLOGY as outlined in the current scope of work and budget. The RECIPIENT must complete all deliverables by the expiration date of this agreement, including delivery of purchases, unless otherwise stated in the scope of work or approved by ECOLOGY in writing.

Note: The term “task” as used in this agreement is interchangeable with the term “project” as used on the online Solid Waste Information Clearinghouse and “element” as used on payment request forms.

The “Maximum Eligible Cost” is the maximum amount of eligible costs incurred by a RECIPIENT that ECOLOGY can reimburse at a rate of 75 percent under this grant.

RECIPIENT shall identify the work plan and activities by “Quarter.” A quarter is defined by calendar year and begins with the first three months of the grant period. The RECIPIENT may negotiate changes to the work plan with ECOLOGY. ECOLOGY shall document mutually agreed changes to the plan in writing.

Expenses relating to the collection and recycling of mercury containing lights shall be eligible for CPG reimbursement until such time that the Mercury Light Recycling program is fully implemented or the grant agreement expires, whichever is the earliest date.

CATEGORY: SOLID WASTE ENFORCEMENT

Maximum Eligible Task Cost: $206,320

1. SOLID WASTE ENFORCEMENT

ACTIVITY 1 – SOLID WASTE HANDLING FACILITY AND SITE COMPLIANCE

Task Description: RECIPIENT shall monitor solid waste handling facility compliance with applicable state solid waste regulations including but not limited to Chapter 173-350 WAC, Chapter 173-351 WAC, Chapter 173-304 WAC, and any related local solid waste regulations or codes. The RECIPIENT will review and process permit applications for new and existing solid waste handling facilities. The scope of this effort includes coordination of permit review, authorization, and renewal with ECOLOGY and other local and state agencies as required.

Monitoring by the RECIPIENT may include but is not limited to inspections and oversight, review of groundwater data, and annual review of financial assurance. New solid waste permit applications and notices of exemption considered during the grant period for facilities not listed in this task may be managed under this agreement.

There are 18 solid waste facilities or sites currently identified in Whatcom County with an active solid waste permit:

• BP Cherry Point Landfill
• BP Inert Waste Landfill
• Intalco Landfill
• RDC
• RDS
• SSC Cedarville Drop Box
• SSC Birch Bay- Lynden Drop Box
• Nooksack Valley Drop Box
• Freedom Recycling
• SSC Roeder Avenue Drop Box

• PSC MRWFF
• Seattle City Light MRWFF
• Freemans
• Green Earth Technology
• Montgomery Scrap Processing
• Clean Green
• Henifins
• City of Bellingham Street Waste Facility.

There are currently 5 solid waste sites identified in Whatcom County in post closure status:
• CCR Landfill
• Cedarville landfill
• GP Airport Landfill
• GP Hilltop Landfill
• Olivine Landfill

RECIPIENT may inspect and monitor sites that are conditionally exempt. There are 12 such sites currently identified in Whatcom County:
• Wilder
• Beacon Battery
• Starkenburg
• Van Dyke Digester
• Farm Power
• Vander Haak Dairy
• Aggregates West
• Whatcom Builders
• ZRecyclers
• NW Recycling
• NW Chip and Grind
• Barkers

Goal Statement: The goal of this task is to protect human health and the environment from improper solid waste management at solid waste handling facilities by enforcing operational standards and requirements.

Outcome Statement: Through this grant, the RECIPIENT expects to conduct site inspections at each of the 12 conditionally exempt solid waste handling facilities in Whatcom County listed above and provide regulatory oversight and assistance as necessary to maintain compliance with local and state regulations. Additional site visits to conditionally exempt facilities may be conducted as funding permits. (Work on the 18 permitted solid waste facilities/sites and 5 permitted landfills in post closure listed above is funded through the permit fees, and thus not covered under this grant.)
**Work Plan, Deliverables and Timeline:**

<table>
<thead>
<tr>
<th>GRANT- YEAR 1</th>
<th>GRANT- YEAR 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Jul- Sep</strong></td>
<td><strong>Jul- Sep</strong></td>
</tr>
<tr>
<td>Accomplish facility and other inspections as scheduled.</td>
<td>Same as previous quarter.</td>
</tr>
<tr>
<td>Follow-up as required / needed.</td>
<td></td>
</tr>
<tr>
<td>Provide oversight / monitor for compliance / comply with expectations outlined in the task description, as applicable.</td>
<td></td>
</tr>
<tr>
<td><strong>Oct- Dec</strong></td>
<td><strong>Oct- Dec</strong></td>
</tr>
<tr>
<td>Same as previous quarter.</td>
<td>Same as previous quarter.</td>
</tr>
<tr>
<td><strong>Jan-Mar</strong></td>
<td><strong>Jan-Mar</strong></td>
</tr>
<tr>
<td>Same as previous quarter.</td>
<td>Same as previous quarter.</td>
</tr>
<tr>
<td><strong>Apr -Jun</strong></td>
<td><strong>Apr -Jun</strong></td>
</tr>
<tr>
<td>Same as previous quarter.</td>
<td>Same as previous quarter.</td>
</tr>
</tbody>
</table>

**Method of Evaluation:** RECIPIENT will track oversight for solid waste facilities/sites and complete quarterly progress reports through the Solid Waste Information Clearinghouse. If grant funds are used for laboratory services, the RECIPIENT will note the sites and briefly describe the analytical results in the corresponding quarterly progress report.

**ACTIVITY 2 – SOLID WASTE INVESTIGATION, ASSISTANCE AND ENFORCEMENT**

**Task Description:** RECIPIENT shall investigate solid waste related complaints or concerns, including, at RECIPIENT’S discretion, assisting in the proper handling of abandoned or illegally stored junk or nuisance vehicles. RECIPIENT shall offer technical assistance about solid waste regulations and how to prevent violations. RECIPIENT shall enforce as necessary. RECIPIENT shall provide public education about proper handling and disposal methods. RECIPIENT expects to conduct the following activities and incur the associated costs:

- **Staff time:** investigate solid waste related complaints or concerns; follow up, including enforcement; provide technical assistance for proper handling and disposal of solid waste; research emerging solid waste issues; attend work-related trainings; and participate in solid waste organizations.

- **Purchases:** communication, vehicle use, office supplies (to the extent it is not covered in the overhead), costs related to education/outreach.
**Goal Statement:** The goal of this task is to protect human health and the environment by monitoring compliance with local and state solid waste regulations, and enforcing compliance when necessary.

**Outcome Statement:** Over the two year grant period, RECIPIENT expects to investigate and resolve approximately 400 solid waste complaints or concerns, and respond to 100 inquiries regarding waste management requirements.

**Work Plan, Deliverables and Timeline:**

<table>
<thead>
<tr>
<th>GRANT- YEAR 1</th>
<th>GRANT- YEAR 2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Jul- Sep</strong></td>
<td><strong>Jul- Sep</strong></td>
</tr>
<tr>
<td>Investigate and resolve solid waste complaints and concerns, follow-up and enforce as necessary, research emerging solid waste issues.</td>
<td>Same as previous quarter.</td>
</tr>
<tr>
<td><strong>Oct- Dec</strong></td>
<td><strong>Oct- Dec</strong></td>
</tr>
<tr>
<td>Same as previous quarter.</td>
<td>Same as previous quarter.</td>
</tr>
<tr>
<td><strong>Jan-Mar</strong></td>
<td><strong>Jan-Mar</strong></td>
</tr>
<tr>
<td>Same as previous quarter.</td>
<td>Same as previous quarter.</td>
</tr>
<tr>
<td><strong>Apr- Jun</strong></td>
<td><strong>Apr- Jun</strong></td>
</tr>
<tr>
<td>Same as previous quarter.</td>
<td>Same as previous quarter.</td>
</tr>
</tbody>
</table>

**Method of Evaluation:** RECIPIENT will track the number of investigations and resolutions (including enforcement actions), numbers of general assistance provided, and will report this information quarterly in the Solid Waste Information Clearinghouse.
PART 2:  BUDGET

<table>
<thead>
<tr>
<th>Budget Information by CATEGORY/TASK</th>
<th>Maximum Eligible Cost</th>
<th>State Grant Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>CATEGORY: SOLID WASTE ENFORCEMENT</td>
<td>$206,320</td>
<td>$154,740</td>
</tr>
<tr>
<td>1. SOLID WASTE ENFORCEMENT</td>
<td>$206,320</td>
<td>$154,740</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TOTAL GRANT BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>TOTAL MAXIMUM ELIGIBLE COST</td>
</tr>
<tr>
<td>STATE Grant SHARE (75%)</td>
</tr>
<tr>
<td>LOCAL CASH MATCH (25%)</td>
</tr>
<tr>
<td>INTERLOCAL COSTS (0%)</td>
</tr>
</tbody>
</table>

PART 3:  BUDGET CONDITIONS

A. ECOLOGY requires the RECIPIENT to provide a match of 25 percent of the maximum eligible cost with cash or interlocal costs. Interlocal costs are the only type of in-kind contributions the RECIPIENT may use as match.

B. If parties are contributing to the local share of task costs (match) through interlocal-in-kind contributions, the RECIPIENT shall negotiate a memorandum of understanding or other written agreement confirming the contribution between the parties. These agreements shall specify the exact work to be accomplished and be signed by all parties contributing to the local match of this task. Copies of these agreements shall be made part of the RECIPIENT’S grant file and submitted to ECOLOGY.

C. Overhead/Indirect is eligible at a rate up to 25 percent of staff salaries and benefits for actual time spent on tasks outlined in this agreement. Salaries and benefits to administer the grant agreement are eligible (excluding time spent to write a CPG grant application).

D. RECIPIENT must submit a written request to ECOLOGY to amend budgets between grant tasks, to modify a scope of work, or for a budget increase or decrease. To increase or decrease the agreement’s total maximum eligible cost or change the scope of work for any tasks as outlined in this grant agreement, ECOLOGY requires a formal amendment.

E. The RECIPIENT must provide ECOLOGY with an updated Spending Plan when requested by ECOLOGY.
F. Any work performed or costs incurred prior to the effective date or after the expiration date of this agreement will be at the sole expense of the RECIPIENT.

PART 4: SPECIAL TERMS AND CONDITIONS

A. BILLING

1. Unless otherwise approved in writing by ECOLOGY, the RECIPIENT shall submit a payment request to ECOLOGY at least quarterly (by calendar year), but no more often than once per month.

2. RECIPIENT must submit payment requests on approved State Invoice Voucher forms: A19-1A, B1/B2, C1/C2. Until there is a change in program policy, the recipient must submit an A19-1A with an original signature in blue ink, signed by an authorized person. The B2 and C2 forms are acceptable in electronic format. The RECIPIENT must also include all backup documentation to support costs itemized on Form C1/C2. The budget is organized by task and therefore, the RECIPIENT shall itemize costs by task on Form C1/C2 and Form B1/B2. Forms B1 and C1 are used only when interlocal costs are used towards the 25% match.

3. Any income directly generated as a result of the activities funded by this grant shall be reported as a credit against the expenses of that activity, as defined by ECOLOGY’S Administrative Requirements for Recipients of Ecology Grants and Loans, Ecology Publication #91-18.

4. RECIPIENT shall submit supporting documents with each payment request. This includes copies of invoices, purchase receipts, payroll records, time and attendance records, grant award documents, and any document deemed relevant by ECOLOGY to establish the approval of an expense listed on Form C1/C2. Documentation shall be clear and legible and organized by task in the order in which it is itemized on Form C1/C2.

5. RECIPIENT shall maintain grant related material and supporting documents including invoice vouchers sent to ECOLOGY in a common file. The RECIPIENT shall keep all supporting documents for audit purposes for at least three years from the date the agreement is closed by ECOLOGY.

B. REPORTING

1. Progress reports must be submitted through the web-based database, the Solid Waste Information Clearinghouse. The RECIPIENT must submit a progress report with each payment request. If a quarterly payment request is not submitted, the RECIPIENT is still required to submit a progress report for that quarter. Reporting on regular solid waste enforcement work is provided through a series of data fields; reporting on a special task requires a separate report. Reports shall include information that supports incurred costs identified on the corresponding C1 or C2 of the payment request. Special task reports will provide a brief update in support of the outcomes and or method of evaluation in the grant agreement.

   a) A Final Performance Analysis (FPA) report is required for each special task in a Solid Waste Enforcement grant before ECOLOGY can process a final payment request.
C. **COMPENSATION**

Payment to RECIPIENT will be issued through Washington State's Department of Enterprise Services (DES). DES maintains a central vendor file for Washington state agency use to process vendor payments. This allows vendors to receive payments from all participating state agencies. RECIPIENTS must register as a state-wide vendor (SWV) by submitting a state-wide vendor registration form and an IRS W-9 form http://www.ofm.wa.gov/isd/vendors/payee_registration.doc to DES. If you have questions about the vendor registration process you can contact DES at the Payee Help Desk at (360) 664-7779 or email to payeehelpdesk@ofm.wa.gov.

D. **TRAINING**

RECIPIENT is expected to participate in any ECOLOGY recommended trainings related to managing a CPG agreement when feasible unless exempted by ECOLOGY in writing.

E. **PROCUREMENT AND CONTRACTS**

1. RECIPIENT must follow local procurement procedures or current state procurement procedures, whichever is stricter. A RECIPIENT with no formal procurement procedures must certify that they have complied with the "Standards for Competitive Solicitation" found in Part V of the Administrative Requirements for Recipients of Ecology Grants and Loans – Yellow Book, Ecology Publication #91-18.

2. Upon issuance, the RECIPIENT may submit a copy of all requests for qualifications (RFQs), requests for proposals (RFPs), and bid documents relating to this grant agreement to ECOLOGY to be placed in the file.

3. Prior to contract execution, the RECIPIENT may submit all draft documents and a copy of the draft proposed contract to ECOLOGY’S ECOLOGY for review. The RECIPIENT assumes any risks associated with the failure to consult with the regional ECOLOGY. Following the contract execution, the RECIPIENT shall submit a copy of the final contract to ECOLOGY to be placed in the file.

4. Unless a specific purchase of equipment or real property is already written into a task’s scope of work, the RECIPIENT must submit a written request to ECOLOGY to purchase any equipment or real property (Property) with a single unit purchase price of $5,000 or more. The request must include the justification for the purchase of the property, the total cost, the intended use, and the anticipated useful life of the property. The request must be approved in writing by ECOLOGY prior to the purchase.

F. **USE OF EXISTING CONTRACTS**

RECIPIENT may use existing contracts that conform to local adopted procurement procedures and applicable state laws. The RECIPIENT shall notify ECOLOGY if intending to use contracts entered into prior to the execution of the grant agreement for performance of grant-funded activities. The RECIPIENT shall submit a copy of the contract to its assigned ECOLOGY ECOLOGY to be placed in the file. The grant eligibility of products or services secured by the RECIPIENT under existing contracts used to perform the scope of work in this agreement must be deemed allowable and reasonable by ECOLOGY prior to cost reimbursement.
G. PROPERTY AND EQUIPMENT MANAGEMENT AND DISPOSITION

For equipment or property purchased with a cost of at least $5,000 per unit or functional system, the RECIPIENT must utilize an inventory control system, including physical inventory to document the ongoing use, a description of the item (including serial or vehicle identification number (VIN when possible) and location. The information shall be submitted to ECOLOGY upon request until final disposition is made. The RECIPIENT shall investigate, document, and report to ECOLOGY any loss, theft or damage upon discovery of such conditions. The RECIPIENT will follow manufacturer recommended maintenance procedures to keep the property in good operating condition.

RECIPIENT shall submit a written request to the ECOLOGY for any intent to change the use of the equipment as outlined in this grant agreement, including uses past the expiration date of this agreement. Disposition of the equipment shall be determined by ECOLOGY and documented in writing. A copy of the determination will be provided to the RECIPIENT upon ECOLOGY’s closure of the grant agreement unless already identified in the task’s scope of work.

- If the equipment is necessary for the continued operation of the project or other projects administered through ECOLOGY, ECOLOGY may instruct the recipient to retain the equipment with no further compensation to ECOLOGY.

- If the project has no further significant use for the equipment, the ECOLOGY may instruct the recipient to retain or sell the equipment and pay ECOLOGY an amount equal to ECOLOGY’s share of the current fair market value, sale proceeds or other price agreed upon by the ECOLOGY.

- ECOLOGY may instruct the recipient to transfer title to ECOLOGY or to a third party named by ECOLOGY who is eligible under existing statutes

H. ALL WRITINGS CONTAINED HEREIN

This Agreement, including the appended “General Terms and Conditions,” current cycle Program Guidelines – Coordinated Prevention Grants https://fortress.wa.gov/ecy/publications/summarypages/1107008.html, and ECOLOGY’S Administrative Requirements for Recipients of Ecology Grants and Loans, Ecology Publication #91-18, contain the entire understanding between the parties, and there are no other understandings or representations except as those set forth or incorporated by reference herein. No subsequent modification(s) or amendment(s) of this grant agreement shall be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made part of this agreement.

I. ARCHEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take reasonable action to avoid, minimize, or mitigate adverse effects to the archeological or cultural resources. RECIPIENT shall immediately cease work and notify ECOLOGY if any archeological or cultural resources are found while conducting work under this agreement. In the event that historical or cultural artifacts are discovered at the project site, the RECIPIENT shall also notify the state historic preservation officer at the Department of Archaeology and Historic Preservation at (360) 586-3065. Applicability of the National Historic Preservation Act (NHPA) may require the RECIPIENT to obtain a permit pursuant to Chapter
J. **ENVIRONMENTALLY PREFERABLE PURCHASING**

In a joint effort to save costs, produce energy savings and prevent waste, the RECIPIENT agrees to use both sides of paper sheets for copying and printing when feasible. The RECIPIENT also agrees to purchase paper products with a high level of post consumer recycled content when they are comparable in quality, available, and cost effective.

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**IN WITNESS WHEREOF**, the parties sign this Agreement:

**STATE OF WASHINGTON**
**DEPARTMENT OF ECOLOGY**

Laurie G. Davies  
Program Manager  
Waste 2 Resources Program  

---

**WHATCOM COUNTY HEALTH**
**DEPARTMENT**

Regina Delahunt  
Director  
9/24/13

---

APPROVED AS TO FORM ONLY  
Assistant Attorney General
WHATCOM COUNTY

JACK LOUWS
County Executive

On this _______ day of ______________, 2013, 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:

_________________________  9/25/13
Elizabeth L. Gallery, Civil Deputy Attorney  Date
APPENDIX A

PART 5: GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements of the Department of Ecology, SS-010 Rev. 04/04

A. RECIPIENT PERFORMANCE

All activities for which grant/loan funds are to be used shall be accomplished by the RECIPIENT and RECIPIENT’s employees. The RECIPIENT shall only use contractor/consultant assistance if that has been included in the agreement’s final scope of work and budget.

B. SUBGRANTEE/CONTRACTOR COMPLIANCE

The RECIPIENT must ensure that all subgrantees and contractors comply with the terms and conditions of this agreement.

C. THIRD PARTY BENEFICIARY

The RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this agreement, the state of Washington is named as an express third-party beneficiary of such subcontracts with full rights as such.

D. CONTRACTING FOR SERVICES (BIDDING)

Contracts for construction, purchase of equipment and professional architectural and engineering services shall be awarded through a competitive process, if required by State law. RECIPIENT shall retain copies of all bids received and contracts awarded, for inspection and use by the DEPARTMENT.

E. ASSIGNMENTS

No right or claim of the RECIPIENT arising under this agreement shall be transferred or assigned by the RECIPIENT.

F. COMPLIANCE WITH ALL LAWS

1. RECIPIENT shall comply fully with all applicable Federal, State and local laws, orders, regulations and permits.

Prior to commencement of any construction, the RECIPIENT shall secure the necessary approvals and permits required by authorities having jurisdiction over the project, provide assurance to the DEPARTMENT that all approvals and permits have been secured, and make copies available to the DEPARTMENT upon request.

2. Discrimination. The DEPARTMENT and the RECIPIENT agree to be bound by all Federal and State laws, regulations, and policies against discrimination. The RECIPIENT further agrees to affirmatively support the program of the Office of Minority and Women's Business Enterprises to
the maximum extent possible. If the agreement is federally-funded, the RECEIPIENT shall report to the DEPARTMENT the percent of grant/loan funds available to women or minority owned businesses.

3. Wages and Job Safety. The RECEIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

4. Industrial Insurance. The RECEIPIENT certifies full compliance with all applicable state industrial insurance requirements. If the RECEIPIENT fails to comply with such laws, the DEPARTMENT shall have the right to immediately terminate this agreement for cause as provided in Section K.1, herein.

G. KICKBACKS

The RECEIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this project to give up any part of the compensation to which he/she is otherwise entitled or, receive any fee, commission or gift in return for award of a subcontract hereunder.

H. AUDITS AND INSPECTIONS

1. RECEIPIENT shall maintain complete program and financial records relating to this agreement. Such records shall clearly indicate total receipts and expenditures by fund source and task or object.

All grant/loan records shall be kept in a manner which provides an audit trail for all expenditures. All records shall be kept in a common file to facilitate audits and inspections.

Engineering documentation and field inspection reports of all construction work accomplished under this agreement shall be maintained by the RECEIPIENT.

2. All grant/loan records shall be open for audit or inspection by the DEPARTMENT or by any duly authorized audit representative of the State of Washington for a period of at least three years after the final grant payment/loan repayment or any dispute resolution hereunder. If any such audits identify discrepancies in the financial records, the RECEIPIENT shall provide clarification and/or make adjustments accordingly.

3. All work performed under this agreement and any equipment purchased, shall be made available to the DEPARTMENT and to any authorized state, federal or local representative for inspection at any time during the course of this agreement and for at least three years following grant/loan termination or dispute resolution hereunder.

4. RECEIPIENT shall meet the provisions in OMB Circular A-133 (Audits of States, Local Governments & Non Profit Organizations), including the compliance Supplement to OMB Circular A-133, if the RECEIPIENT expends $500,000 or more in a year in Federal funds. The $500,000 threshold for each year is a cumulative total of all federal funding from all sources. The RECEIPIENT must forward a copy of the audit along with the RECEIPIENT’S response and the final corrective action plan to the DEPARTMENT within ninety (90) days of the date of the audit report.

I. PERFORMANCE REPORTING
RECIPIENT shall submit progress reports to the DEPARTMENT with each payment request or such other schedule as set forth in the Special Conditions. The RECIPIENT shall also report in writing to the DEPARTMENT any problems, delays or adverse conditions which will materially affect their ability to meet project objectives or time schedules. This disclosure shall be accompanied by a statement of the action taken or proposed and any assistance needed from the DEPARTMENT to resolve the situation. Payments may be withheld if required progress reports are not submitted.

Quarterly reports shall cover the periods January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be due within thirty (30) days following the end of the quarter being reported.

**J. COMPENSATION**

1. Method of compensation. Payment shall normally be made on a reimbursable basis as specified in the grant agreement and no more often than once per month. Each request for payment will be submitted by the RECIPIENT on State voucher request forms provided by the DEPARTMENT along with documentation of the expenses. Payments shall be made for each task/phase of the project, or portion thereof, as set out in the Scope of Work when completed by the RECIPIENT and approved as satisfactory by the Project Officer.

The payment request form and supportive documents must itemize all allowable costs by major elements as described in the Scope of Work. Instructions for submitting the payment requests are found in "Administrative Requirements for Recipients of Ecology Grants and Loans", part IV, published by the DEPARTMENT. A copy of this document shall be furnished to the RECIPIENT. When payment requests are approved by the DEPARTMENT, payments will be made to the mutually agreed upon designee.

Payment requests shall be submitted to the DEPARTMENT and directed to the Project Officer assigned to administer this agreement.

2. Period of Compensation. Payments shall only be made for actions of the RECIPIENT pursuant to the grant/loan agreement and performed after the effective date and prior to the expiration date of this agreement, unless those dates are specifically modified in writing as provided herein.

3. Final Request(s) for Payment. The RECIPIENT should submit final requests for compensation within forty-five (45) days after the expiration date of this agreement and within fifteen (15) days after the end of a fiscal biennium. Failure to comply may result in delayed reimbursement.

4. Performance Guarantee. The DEPARTMENT may withhold an amount not to exceed ten percent (10%) of each reimbursement payment as security for the RECIPIENT’s performance. Money withheld by the DEPARTMENT may be paid to the RECIPIENT when the project(s) described herein, or a portion thereof, have been completed if, in the DEPARTMENT's sole discretion, such payment is reasonable and approved according to this agreement and, as appropriate, upon completion of an audit as specified under section J.5 herein.

5. Unauthorized Expenditures. All payments to the RECIPIENT may be subject to final audit by the DEPARTMENT and any unauthorized expenditure(s) charged to this grant/loan shall be refunded to the DEPARTMENT by the RECIPIENT.

6. Mileage and Per Diem. If mileage and per diem are paid to the employees of the RECIPIENT or other public entities, it shall not exceed the amount allowed under state law for state employees.
7. Overhead Costs. No reimbursement for overhead costs shall be allowed unless provided for in the Scope of Work hereunder.

K. TERMINATION

1. For Cause. The obligation of the DEPARTMENT to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of the DEPARTMENT, to perform any obligation required of it by this agreement, the DEPARTMENT may refuse to pay any further funds thereunder and/or terminate this agreement by giving written notice of termination.

A written notice of termination shall be given at least five working days prior to the effective date of termination. In that event, all finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, and reports or other materials prepared by the RECIPIENT under this agreement, at the option of the DEPARTMENT, shall become Department property and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Despite the above, the RECIPIENT shall not be relieved of any liability to the DEPARTMENT for damages sustained by the DEPARTMENT and/or the State of Washington because of any breach of agreement by the RECIPIENT. The DEPARTMENT may withhold payments for the purpose of setoff until such time as the exact amount of damages due the DEPARTMENT from the RECIPIENT is determined.

2. Insufficient Funds. The obligation of the DEPARTMENT to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. When this agreement crosses over state fiscal years the obligation of the DEPARTMENT is contingent upon the appropriation of funds during the next fiscal year. The failure to appropriate or allot such funds shall be good cause to terminate this agreement as provided in paragraph K.1 above.

When this agreement crosses the RECIPIENT's fiscal year, the obligation of the RECIPIENT to continue or complete the project described herein shall be contingent upon appropriation of funds by the RECIPIENT's governing body; provided, however, that nothing contained herein shall preclude the DEPARTMENT from demanding repayment of ALL funds paid to the RECIPIENT in accordance with Section 0 herein.

3. Failure to Commence Work. In the event the RECIPIENT fails to commence work on the project funded herein within four months after the effective date of this agreement, or by any date mutually agreed upon in writing for commencement of work, the DEPARTMENT reserves the right to terminate this agreement.

L. WAIVER

Waiver of any RECIPIENT default is not a waiver of any subsequent default. Waiver of a breach of any provision of this agreement is not a waiver of any subsequent breach and will not be construed as a modification of the terms of this agreement unless stated as such in writing by the authorized representative of the DEPARTMENT.
M. PROPERTY RIGHTS

1. Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property, the RECIPIENT may copyright or patent the same but the DEPARTMENT retains a royalty-free, nonexclusive and irrevocable license to reproduce, publish, recover or otherwise use the material(s) or property and to authorize others to use the same for federal, state or local government purposes.

Where federal funding is involved, the federal government may have a proprietary interest in patent rights to any inventions that are developed by the RECIPIENT as provided in 35 U.S.C. 200-212.

2. Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish information of the DEPARTMENT; present papers, lectures, or seminars involving information supplied by the DEPARTMENT; use logos, reports, maps or other data, in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to the DEPARTMENT.

3. Tangible Property Rights. The DEPARTMENT's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans", Part V, shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by the DEPARTMENT in the absence of state, federal statute(s), regulation(s), or policy(s) to the contrary or upon specific instructions with respect thereto in the Scope of Work.

4. Personal Property Furnished by the DEPARTMENT. When the DEPARTMENT provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to the DEPARTMENT prior to final payment by the DEPARTMENT. If said property is lost, stolen or damaged while in the RECIPIENT's possession, the DEPARTMENT shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.

5. Acquisition Projects. The following provisions shall apply if the project covered by this agreement includes funds for the acquisition of land or facilities:

   a. Prior to disbursement of funds provided for in this agreement, the RECIPIENT shall establish that the cost of land/or facilities is fair and reasonable.

   b. The RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses contemplated by this agreement.

6. Conversions. Regardless of the contract termination date shown on the cover sheet, the RECIPIENT shall not at any time convert any equipment, property or facility acquired or developed pursuant to this agreement to uses other than those for which assistance was originally approved without prior written approval of the DEPARTMENT. Such approval may be conditioned upon payment to the DEPARTMENT of that portion of the proceeds of the sale, lease or other conversion or encumbrance which monies granted pursuant to this agreement bear to the total acquisition, purchase or construction costs of such property.
N. SUSTAINABLE PRODUCTS
In order to sustain Washington’s natural resources and ecosystems, the RECIPIENT is encouraged to implement sustainable practices where and when possible. These practices include use of clean energy, and purchase and use of sustainably produced products (e.g. recycled paper). For more information, see www.ecy.wa.gov/sustainability.

O. RECOVERY OF PAYMENTS TO RECIPIENT
The right of the RECIPIENT to retain monies paid to it as reimbursement payments is contingent upon satisfactory performance of this agreement including the satisfactory completion of the project described in the Scope of Work. In the event the RECIPIENT fails, for any reason, to perform obligations required of it by this agreement, the RECIPIENT may, at the DEPARTMENT’s sole discretion, be required to repay to the DEPARTMENT all grant/loan funds disbursed to the RECIPIENT for those parts of the project that are rendered worthless in the opinion of the DEPARTMENT by such failure to perform.

Interest shall accrue at the rate of twelve percent (12%) per year from the time the DEPARTMENT demands repayment of funds. If payments have been discontinued by the DEPARTMENT due to insufficient funds as in Section K.2 above, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination. Any property acquired under this agreement, at the option of the DEPARTMENT, may become the DEPARTMENT’S property and the RECIPIENT’S liability to repay monies shall be reduced by an amount reflecting the fair value of such property.

P. PROJECT APPROVAL
The extent and character of all work and services to be performed under this agreement by the RECIPIENT shall be subject to the review and approval of the DEPARTMENT through the Project Officer or other designated official to whom the RECIPIENT shall report and be responsible. In the event there is a dispute with regard to the extent and character of the work to be done, the determination of the Project Officer or other designated official as to the extent and character of the work to be done shall govern. The RECIPIENT shall have the right to appeal decisions as provided for below.

Q. DISPUTES
Except as otherwise provided in this agreement, any dispute concerning a question of fact arising under this agreement which is not disposed of in writing shall be decided by the Project Officer or other designated official who shall provide a written statement of decision to the RECIPIENT. The decision of the Project Officer or other designated official shall be final and conclusive unless, within thirty days from the date of receipt of such statement, the RECIPIENT mails or otherwise furnishes to the Director of the DEPARTMENT a written appeal.

In connection with appeal of any proceeding under this clause, the RECIPIENT shall have the opportunity to be heard and to offer evidence in support of this appeal. The decision of the Director or duly authorized representative for the determination of such appeals shall be final and conclusive. Appeals from the Director’s determination shall be brought in the Superior Court of Thurston County. Review of the decision of the Director will not be sought before either the Pollution Control Hearings Board or the Shoreline Hearings Board. Pending final decision of dispute hereunder, the RECIPIENT
shall proceed diligently with the performance of this agreement and in accordance with the decision rendered.

R. CONFLICT OF INTEREST
No officer, member, agent, or employee of either party to this agreement who exercises any function or responsibility in the review, approval, or carrying out of this agreement, shall participate in any decision which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly interested; nor shall he/she have any personal or pecuniary interest, direct or indirect, in this agreement or the proceeds thereof.

S. INDEMNIFICATION
1. The DEPARTMENT shall in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.

2. To the extent that the Constitution and laws of the State of Washington permit, each party shall indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this agreement.

T. GOVERNING LAW
This agreement shall be governed by the laws of the State of Washington.

U. SEVERABILITY
If any provision of this agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this agreement which can be given effect without the invalid provision, and to this end the provisions of this agreement are declared to be severable.

V. PRECEDENCE
In the event of inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable Federal and State statutes and regulations; (b) Scope of Work; (c) Special Terms and Conditions; (d) Any terms incorporated herein by reference including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; and (e) the General Terms and Conditions.
WHATCOM COUNTY COUNCIL
Special Committee of the Whole

September 10, 2013

CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 1:07 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(1:06:36 PM)

Present: Barbara Brenner, Sam Crawford, Kathy Kershner, Bill Knutzen, Ken Mann, Carl Weimer and Pete Kremen.

Absent: None.

SPECIAL PRESENTATION

1. CONSULTANT DLR GROUP TO PRESENT A JAIL PLANNING UPDATE (AB2013-042B)

Jack Louws, County Executive, stated today’s presentation includes a schedule update and discussion of operating and construction costs. The cost estimates include the full build out of phases one and two of the facility.

Brenner stated she would like to receive meeting documents before the meeting so she has time to read it and prepare before the meeting, even if the documents are draft.

Bill Valdez, DLR Group, read from a presentation (on file). The estimates are based on the 2026 needs estimate, which calls for a 649 bed jail. The initial number of beds in phase one is 521 beds. Operational and construction costs are based on phase one and phase two.

Lori Coppenrath, DLR Group, continued the presentation beginning with the areas included in the operational budget, which includes only the jail, not the Sheriff’s Office.

Valdez concluded the presentation beginning with the estimated construction cost budget. The subtotal cost of brick and mortar construction is $79 million. Including various soft costs, the grant total estimate is $109 million.

Knutzen asked the potential for estimates to come in under budget due to lower construction costs as a result of economic factors. Valdez stated the cost estimators base their estimates on whatever the middle bid would be, based on the current bid climate. If the construction climate changes, those values can go up or down, which requires the contingency budget.
Knutzen asked if they are limited to how many general contractors can bid. Valdez stated the numbers are based on a design bid build delivery method, which is an open bid. They would receive bids from all interested general contractors who are able to bond the project. If they choose, a different delivery model could require qualifications ahead of time.

Mann stated incorporate alternative sentencing and other programs into the design. He asked if the current estimates allow for alternative programs and when they will discuss which alternative programs and facilities they would like to include. Valdez stated the County already has many alternative programs. Whatcom County is extremely progressive with its incarceration alternatives. Not all of the jail population can work in an alternative program. The psychological and medical areas are sized to accommodate all future needs. Additional programs outside of the jail is a bigger social discussion that may still need to occur. Coppenrath described the design’s plan for alternative evaluations.

Kershner asked if the design will include medical service areas onsite so they don’t have to take inmates to the emergency room, as is happening right now. Coppenrath stated the medical facilities will be larger and more comprehensive. There will still be instances in which they will have to take an inmate to the hospital. There will be nursing staff, but not a doctor, onsite 24 hours per day, seven days per week.

Brenner stated it seems like the amount estimated for mental health and substance abuse services is low. Valdez stated they are the program spaces outside the housing units.

Brenner asked if the estimates are for the square footage, not the programs themselves. Valdez stated that’s correct. Special needs housing is included in the housing estimates. Two of the 12 in phase one would be dedicated to special needs.

Brenner asked the definition of third party commissioning fees under the soft costs section. Valdez stated it’s when they bring in a commissioning agent as the project is under construction and again after construction to make sure everything was installed properly and functions properly. It’s more than just inspection. The person has expertise in electrical and mechanical systems. It adds an extra level of oversight and expertise to make sure the building functions as designed.

Brenner asked about building art. Valdez stated it is a State requirement. They are going to modify the estimate. It’s about aesthetic improvements.

Brenner asked if landscaping costs are included. Valdez stated they are, in the site work requirements. He has more detailed information available.

Kremen stated the allocation of a three percent owner’s contingency is low. Valdez stated it is low at this time. Other line items with margins and estimates have higher contingencies already built in. As they further define the estimates, the estimating contingency will be decreased. By the time they arrive at bid day, the owners contingency will be closer to five to eight percent.

Mann referenced the diversion and alternative programs and asked for a snapshot of the jail population and who is available and qualifies for alternative programs. Valdez
stated that detailed information will be in the needs assessment report, which will be available in a few weeks. They can present on that topic in October.

Mann stated he would like that information in a report and a presentation on that topic. He’s hearing about this from the community.

Weimer stated defense lawyers in the community say Whatcom County has chosen a conservative amount of time people can get off for good behavior. Other counties in the state are more liberal in that time, which reduces jail population. He asked if that was taken into account when they came up with the jail population number.

Bill Elfo, County Sheriff, stated it fluctuates with the behavior of the inmate. In the main jail, the population has aggressively grown into a population of people with bad behavior and institutional behavior problems. Others are diverted into the alternative center, which has more liberal policies on good time. They also have other privileges while in that facility. They operate to what the statutes require. Most prisoners are pre-trial inmates anyway.

Brenner stated she would like a discussion with the Sheriff’s Office on alternative programs and what else the County can do. Elfo stated invest more in the community to make mental health services more accessible. In the jail, some people with mental illness are either dangerous and violent. The State cut the funding for Western State Hospital. Instead of a two to three week process, the process is three or four months long. People who are severely mentally ill and violent have to stay in cells by themselves, which takes up a lot of space. State law allows them to divert people to a fully functional mental health triage center for certain misdemeanor crimes. The County is not set up to do that. Those people are in for a very short period of time for misdemeanors.

Brenner asked if the design includes smaller single cells that meet standards. Elfo stated there are a number of single cells in the new facility design. The treatment facility in the jail would provide a certain level of treatment during incarceration. The average length of stay in the jail is 21 days. The opportunity for meaningful change is limited. If they are serious about fixing the mental health system and cutting down the jail population, they must begin in the community before people are arrested.

Brenner stated they can get someone stabilized on medication in less than 21 days. Elfo stated they can’t force medication on people. However, people come into the jail who are on Medicaid, and they lose that benefit as soon as they are in jail. When they are released, they don’t have the wherewithal to reenroll in Medicaid. The Jail and Health Department put a staff person in the jail to help with that process. At the State and federal level, resources are drying up.

Brenner stated they need to include the structure and cost for the new jail. She hasn’t seen those numbers.

Mann asked if there is anything the County can do to change the law that ends Medicaid when in jail. Elfo stated there have been several efforts. To date, there has been no progress.
Kremen stated this has been a high priority for the National Association of Counties. He serves on the larger county caucus, which has met three times in the White House with both Republican and Democratic administrations on this issue. It’s a cheap shift from the federal government to local government. They will continue to pursue a change in federal policy.

Kershner asked if navigators of the new Affordable Care Act can spend a day in the jail, so those being released can be navigated to Medicaid. Elfo stated a Health Department position is assigned to the jail to do that. If there are other options as a result of the Affordable Care Act, he will want to exploit those options.

Kershner asked if the budget is what the Executive anticipated. Louws stated it’s a lot of money. At this stage of planning, the design group has been realistic anticipating their needs in 20 or 25 years. Based on other projects built in the state, the numbers are realistic.

A one-tenth of a one percent sales tax increase equals about $3.2 million per year for Whatcom County. It takes about $65,000 per million dollars of debt to service it. The sales tax increase would service approximately $50 million of debt service. Two-tenths are available to use if they choose to go that route. They also have existing capacity in the original one-tenth that was already passed.

Administrative staff will put together options for paying the capital costs and operations. They are 25 to 30 percent done with that exercise. He looks forward to talking with the Council, the cities, and community members in the next few months to find the best path forward for paying for this facility. They will find a way to fund it.

The supplemental environmental impact statement (SEIS) will come forward, and they should be able to make a decision on the property in November or December. Through the remainder of this year and next year, engage in the cities and citizens to develop a working plan to move forward. They will need to go to the voters with a sales tax increase proposal or a property tax.

This is a realistic snapshot of operation and construction estimates. They also included an estimate for maintaining the facility to a high level of quality. Make sure they build what they need. Be as open as they can and engage the community.

Kershner stated a concern is that whoever builds the jail be a qualified contractor who builds a quality building that will last. She doesn’t know how to write that into the process, but don’t build a building that will be obsolete in ten or 20 years. Make sure they build it right the first time. Louws stated it’s also necessary to have the vision to spend the right amount of money and identify the right products and quality of products in the bid documents. Install the right mechanical systems at the onset of construction. As the building begins to age, make sure they maintain it. They haven’t yet talked about the specific process for selecting a contractor.

Brenner stated figure out how the quality can be guaranteed. It’s about more than trying to find someone who seems qualified. Louws stated there was a different philosophy when this jail was built. The State gave the County a certain amount of money, and the
County tried to do what it could with that money. Those years were extremely difficult for the economy.

Brenner stated things started going bad on that building immediately. Louws stated they will take all those things into consideration. He believes in the team. They will do what they can to minimize the risk related to project quality.

Brenner asked if the property tax increases if the County does a bond. Louws stated the County can pay for a bond through either a property tax increase or sales tax increase. The County would bond the project and pay it off over time.

Brenner asked how long the bond would be and what the rate may be. Louws stated the bond would be for 25 to 30 years.

Kremen stated it was prudent to include replacement and maintenance costs in the budget. They didn’t have to do that. The bottom line would have appeared less. It’s realistic to budget for maintenance. He is concerned about the likelihood of significantly higher interest rates in the next couple of years. The bond interest rate will have a huge impact on what the people of Whatcom county will pay for this facility.

Louws stated the cost of money is going up. It would have a big impact.

Crawford asked what the stepping stones are in the design. Louws stated stepping stones one and two are the Sheriff’s office. Stepping stone three is 90 percent jail and ten percent Sheriff’s office. The Sheriff’s office headquarters would move to this site. The Sheriff’s facilities estimate is about $11 million of the $109 million project. The County hired DLR to look at what would happen to the existing jail and Sheriff’s Office and developing a fourth Superior Court courtroom. Demolition and large scale site change is not included in these estimates.

Crawford referenced line 30 of the budget estimates and asked how much of the sales tax the County receives. Louws stated most of the money goes to the City of Ferndale. The building would not be built in Whatcom County.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 2:16 p.m.

The Council approved these minutes on ______________, 2013.

ATTEST: WHATCOM COUNTY COUNCIL

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

Dana Brown-Davis, Council Clerk

Kathy Kershner, Council Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL
Regular County Council

September 10, 2013

CALL TO ORDER

Council Chair Kathy Kershner called the meeting to order at 7:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

(7:01:56 PM)

Present: Barbara Brenner, Ken Mann, Sam Crawford, Bill Knutzen, Kathy Kershner, Carl Weimer and Pete Kremen.
Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

Kershner announced the Consultant DLR Group presented a jail planning update (AB2013-042B) during the Special Committee of the Whole meeting.

MINUTES CONSENT

(7:02:51 PM)

Knutzen moved to approve Minutes Consent items one through nine.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

1. REGULAR COUNTY COUNCIL FOR JUNE 18, 2013
2. SURFACE WATER WORK SESSION FOR JUNE 25, 2013
3. REGULAR COUNTY COUNCIL FOR JULY 9, 2013
4. SPECIAL COMMITTEE OF THE WHOLE FOR JULY 23, 2013
5. COMMITTEE OF THE WHOLE FOR JULY 23, 2013
6. REGULAR COUNTY COUNCIL FOR JULY 23, 2013
7. BOARD OF HEALTH FOR JULY 30, 2013

8. SPECIAL COMMITTEE OF THE WHOLE FOR AUGUST 6, 2013

9. REGULAR COUNTY COUNCIL FOR AUGUST 6, 2013

PUBLIC HEARINGS

1. RESOLUTION APPROVING RECOMMENDATIONS ON APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT (AB2013-290) (7:03:44 PM)

Erin Osborne, Planning and Development Services Department, gave a staff report.

Mann asked for the Planning Commission recommendation and staff recommendation for each application. Osborne stated the Planning Commission recommended denial for the Sefton application and the Kennedy applications, and recommended approval for the Smith application.

Kremen asked the Planning Commission vote for denial on the Kennedy application. Osborne stated she doesn't remember who voted for and against the application. The vote to deny the Kennedy application was not unanimous. The Smith application vote was unanimous. The Sefton application to deny was not unanimous.

Kershner asked the Planning staff to note that the Council would like to have the Planning Commission’s actual votes in the record.

Brenner stated it’s important for the Planning Commission minutes to be more complete. Council staff should do those minutes. The Council is not getting complete minutes. They talked about this last year during the budget.

Kershner opened the public hearing, and the following people spoke:

William Kennedy submitted a handout (on file). The Planning staff use a checklist that parallels the code requirements. He urged the Council to read his handout and approve his application. Staff gave the application a perfect score. When it came before the Planning Commission, the decision was denied. His application meets all the requirements. The certified arborist who helped him prepare the report also emailed the Council.

Ellen Thompson, Whatcom Association of Celestial Observers President, stated she urges the Council to support the Sefton application as a possible dark sky park where the club can host its star parties. It’s difficult to find a dark sky site in Whatcom County that is accessible to all. Now, they go to a clear cut location on the Van Zandt dike in the winter and the Artist Point parking lot in the summer. Neither are totally acceptable to people in Bellingham because of the distance. There is a danger to going up a logging road in the dark. Having a site that is at a lower elevation and more accessible would be wonderful. The current outreach programs reach about 800 people per year. They are part of the night sky network. Many people like to know where to go after dark that is safe and legal to
watch the stars, Perseid meteor showers, or northern lights. There are few places to do this.

Royal Sefton stated he and his wife own the property on Goodwin Road. He urges the Council to support the application. He described the property size and location. Trails are mowed through the trees. The land and soil aren't suitable for agricultural purposes. They are not growing trees for harvest. It originally had been a Christmas Tree farm, but it went to seed several years before he purchased the property. They will make the property available to Boy Scouts, the astronomy club, and other groups. There is adequate parking because the land is basically gravel. There are no soft spots. He will begin to do some mowing for club use. There was a voice vote at the Planning Commission, so he doesn't know who voted which way.

Brenner asked about the tree farm. Sefton stated that when he bought the property, the trees were there and he thought they were marketable Christmas trees, but they weren't. They were planted too close together and had never been thinned. They were oversize. They are too small for timber right now. At this point, they are scraggly fir trees.

Sue Sefton stated other clubs interested in the property including the Trailblazers jogging club and the Girls on the Run club through the YMCA. A professional marathon runner wants to train on the property. The programs are to boost self-esteem in young people. She’s very excited about hosting the astronomy club. She also contacted a pony club, but didn’t hear from them. The people she’s spoken to have been very enthusiastic. They are the only application for Open Space for recreation and public access. Currently, people have to go to parks. It’s very convenient. She doesn't want to log the land. They must preserve it.

Aubrey Stargell stated he is the certified arborist who drafted the timber management plan for the Kennedy application. He supports the Kennedy application. In spite of receiving the maximum number of points possible and a staff recommendation for approval, the Planning Commission recommends denying the application. The application meets all requirements of the law. The Planning Commission recommended denial based on vague feelings and an apparent dislike of the law that allows these applications. The application should not be rejected for these reasons. Mr. Kennedy diligently implemented the timber management plan. He planted and tends the trees. Growing trees benefits all Whatcom County residents. Approve the application. There was no good reason for denial. He sent an email.

Hearing no one else, Kershner closed the public hearing.

(7:23:51 PM)

Knutzen moved to approve the resolution and to amend the resolution to approve all three applications listed in the resolution.

Mann stated he supports the motion. He thanked the Seftons for the outreach they did to make sure people can enjoy the property. Owners often attempt to hide the public access requirement on the properties from the public.
Brenner moved to amend the amendment, to remove the Sefton Open Space/Open Space application from consideration. What they’re doing sounds very nice. For years it’s been in agricultural open space. This goes against what the Council wants to do with agricultural land. There are many pretty places in the county. It’s surrounded by agricultural use on all sides. She’s concerned about locating an intensive public use in the middle of agricultural land. They will immediately get complaints about usual and accustomed agricultural practices. Don’t take property off the tax role because it’s beautiful. Most of Whatcom County would meet that criterion. She’s concerned about the location and about changing from agriculture to open space. They must prioritize open space applications. The owners could do a different agricultural use. The benefits they would provide would be provided regardless of open space designation, including the protection of natural resources and not developing the land.

Weimer stated he is against Councilmember Brenner’s amendment to not include the Sefton application. He supports the Sefton application. The County has been doing this for years. It’s unfair to change the rules in the middle of the process because they are uncomfortable with the open space application process and rating system in general. People have applied and come forward in good faith. Also, the application says that this site is 87.6 percent not prime agricultural soils. As the applicant said, a lot of it has already been mined for gravel. Last, moving it to an open space designation doesn’t preclude the option of returning to an agricultural open space designation in the future.

Brenner stated she has a hard time believing the soils aren’t productive. The best gravel pits are below agricultural soil. That’s why they have a hard time siting gravel pits. Great soils aren’t necessary to grow trees. The soil is good enough. There is a lot of agriculture in the area.

Kershner stated the Council is using criteria that’s 24 years old. They must revise the criteria. It’s not fair to people who pay an application fee and go through the process to find out that the priorities have changed, even though Planning staff rates an application highly. She is against Councilmember Brenner’s motion to amend.

Brenner stated work with the administration and waive the fee. The Seftons should get their fee back. They have discretion to do that.

Kershner stated she agrees that the process should be revised, but not on the backs of people who are in the middle of the application process. The Planning Commission alerted the Council last year that these criteria were old. The Council should have taken action then to revise the criteria.

Councilmember Brenner’s motion to amend failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (6)

The motion to approve with an amendment to approve all three applications carried by the following vote:

**Ayes:** Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (6)

**Nays:** Brenner (1)
2. ORDINANCE ADOPTING AMENDMENTS TO THE WHATCOM COUNTY CODE TO ALLOW PACKINGHOUSES IN THE AGRICULTURE ZONING DISTRICT (AB2012-300C) (7:34:55 PM)

Josh Fleischman, Planning and Development Services Department, gave a staff report on changes made at the last meeting.

Kershner opened the public hearing, and the following people spoke:

Matt Petryni, ReSources for Sustainable Communities, stated he encourages the Council to continue to look at the ordinance due to concerns about water quality. He likes the changes they've made about sourcing the livestock from local areas, reducing the size of the facilities, and other things. Requiring anaerobic digesters for waste would help to protect water quality. Remove wetlands and aquifer recharge areas. There are solutions to allow value-added products for the agricultural community and meet needs for water and soil for the future.

Charles Law read from Dr. William Tuttle about the relationship between human beings and livestock and the human condition. There is a correlation between domestic violence and slaughterhouse workers, who have no other outlet to express their frustrations.

Ken Kaliher submitted and read from a handout (on file). He has several concerns about water and air quality and concerns of neighbors. He asked the Council to withhold action until it can reconsider the issues.

Tip Johnson stated the Council can't fix this ordinance. He referenced and read from the U.S. Department of Agriculture (USDA) publication Slaughter and Processing Options and Issues for Locally Sourced Meats. There are no standards for quality or treatment of the livestock. Producers should partner with consumers and retailers, establish quality standards, aggregate production that can support a facility, do a needs assessment, work with local government for siting and financial support to find the very best place for one adequate facility. The size will be 3,000 to 5,000 square feet and serve more than one county. They don't need 88,000 acres of it. Small facilities are marginal. This is the wrong approach. Consumers will not support brands with negative impacts and inhumane treatment standards. The community will mobilize to overturn the policy and support candidates who oppose this.

Ronna Loerch stated the Council allowed land speculators to ride over the interest of local citizens and spent thousands of dollars to fight a State law to coddle special interests. The jail proposal is out of touch with the times and concepts of restorative justice. The Council is unwilling to recuse itself from the proposed coal terminal deliberations so they can represent the citizens they serve. This ordinance is a guise for a rezone. It's not been studied for water use or wastewater. Comments and signatures regarding this proposal are 95 percent against it and five percent for it. Given all these issues, they've excluded the public from deliberations. The Council is running a racket favoring private citizens and interests, not public citizens. Defeat this ordinance.

Terry Wechsler stated they must protect water rights. She referenced the public trust doctrine. The public holds rights to water in trust for the people. They must protect
the water. This ordinance hasn’t had State Environmental Policy Act (SEPA) review. Table
this ordinance, or the courts will.

Greg Brown stated the human condition is for survival. They need to eat. The
Council has compromised on this issue for nine months. The Planning Commission also
compromised. Compromising further would not allow packinghouses. That is the goal of
the naysayers of this project.

Max Perry stated they have spent 20 months working on this issue. People opposed
use emotions and fears, saying slaughterhouses on agricultural land would contaminate
water and soil. If this is truly a concern, an inspected and regulated packinghouse would
protect from contamination. Adopt the ordinance.

Wendy Harris stated she is against the ordinance. Issues have not been resolved.
Problems have been amplified. The climate and soil give them a viable agricultural industry.
They must protect prime agricultural soil. This proposal requires they avoid prime
agricultural soil where feasible. It does not limit the number of facilities that can be built.
It’s difficult to enforce regulations that talk about doing things to the extent feasible.
Making the farmers rich with this use would appease a few people, but the entire
community will lose. People without a financial interest in this ordinance are showing up.
There’s more at stake than the enrichment of farmers.

Kate Blystone, FutureWise Whatcom, referenced a letter she sent yesterday and
stated she appreciates recent changes. She is still concerned about screening and setbacks,
limiting impervious surface, limiting the use to non-prime agricultural soils, and requiring
applicants to obtain a water right. Do not adopt the ordinance tonight.

Carol Follett stated she thanks the Council for making changes. She asked the
Council to continue to listen and make the changes suggested by FutureWise and ReSources
regarding water considerations and preservation of soil and land. She is concerned that this
regulation will not protect them from a facility starting small, but growing too big. If they do
a needs assessment, they will find they may not need this in the community as much.

David Haggith, Washington State Dairy Federation, stated he supports the ordinance.
It supports all animal agriculture in the county, not just dairy farming. It supports the
county’s economy. It supports animal welfare. There are few facilities in Whatcom county,
so they must travel long distances, which is stressful. In terms of water quality, a 20,000
cow slaughter facility will produce less concentrated waste than a 200 cow dairy. Requiring
waste to go to an anaerobic digester does not make the waste go away. It can help
manage the waste in certain aspects, but it’s still waste.

Nancy Metcalf stated she also has concerns and asks the Council to halt this
ordinance as it stands. Limit the number of facilities that would be allowed in Whatcom
county. Initiate water studies.

Jill MacIntyre Witt stated she sent an email earlier today. Consider climate and
water impacts. Industrial agriculture contributes to CO2 emissions. It takes 600 gallons of
water to produce one hamburger. Consider the bigger scale. Table the vote or vote no on
the ordinance. Improve the ordinance to include restrictions on the proposal. In every
decision made in Whatcom county, consider climate and water impacts.
Michelle Smith stated she sent a letter to the Council. The definitions of packinghouse and slaughterhouse are confusing. Look at the definitions in terms of what whether it includes fresh meat. Regarding limitation on building area, there are concerns about the capacity necessary to serve the volume of livestock. There are also concerns about environmental impacts from the volume of livestock processed. Neither has to do with the size of a building, which must include many different uses and areas. Businesses should be able to make the best choices they can to protect the environment, meet regulatory requirements, protect employees, and provide a safe and healthy work environment. The size is restricting.

Nicole Brown stated areas in the South Fork Valley are at sea level. The area is extremely wet, has standing pond water and flood areas. Debris flow areas come down from the mountain. There is Nooksack River shoreline. The wells aren’t very deep. She supports on-farm slaughter, but acknowledge these facilities have known pollution pathways. They may due to accidents such as floods. Protect areas that supply water. She encourages a conditional use and protecting sensitive areas.

Lorraine Newman stated she supports adoption. Meat producers need support facilities for their businesses. Meat packing is legal and highly-regulated. Create space to provide the support service.

Kris Halterman stated there is a 60 percent growth in the arctic cap this year. The amendment gives farmers a means to bring profitability to their farms and gives a benefit to associated businesses and residents. Adopt the ordinance as proposed.

Richard Reese stated the proposal should not go forward without water quality and quantity analysis, evaluation, and study. The Council assumes the proposal would help farmers stay on the land. The opposite is true due to the water quality issues. There is a tremendous threat to unrestrained or unevaluated water use in Whatcom County. Understand the pressures they’ll face in the future. Recycling water from the slaughterhouse doesn’t sound good. He’s concerned about the margin of error for recycling water. Whatcom County is fully functional under the Growth Management Act, which requires that they pay attention to these things. There must be critical review, study, and protection of critical areas, including aquifer recharge areas and wellhead protection areas. Noncompliance with the GMA may cause things that cost money, such as lawsuits and lost revenue streams. He referenced Revised Code of Washington (RCW) 36.70A.340. Don’t spend money if they don’t have to. Do a study.

Gary Knaus stated they should be worried about the water quality because the Department of Ecology will be watching. Farmers are under scrutiny of these agencies all the time. The farmers know the State will watch every move they make. There will be frequent inspections. The number of animals locally won’t support more than one or two slaughterhouses. There aren’t going to be a bunch of them. There’s no reason to be scared. There will be zoning and other regulations. The facility will be inspected before anything is done. Adopt the ordinance.

Jeff Rainey stated there have been numerous slaughterhouses in Whatcom County in the past. Not one has required cleanup. He hauls cattle to Stanwood for slaughter. That
slaughterhouse is a beautiful facility. No one would know it’s a slaughterhouse. There are a lot of false statements. Adopt the ordinance. Add value to Whatcom County cattle.

Esther Faber stated she is concerned about the number of facilities. Limit the number of facilities to just a few.

Irene Morgan stated they need to be concerned about water. She ran Morgan Meats for 20 years. They used a lot of water. They lose 45 to 50 percent every time they slaughter a cow from standing weight to hanging weight. There is a lot of waste. They quit 23 years ago because of the regulations. They were inspected by three separate jurisdictions. They don’t have to be worry about spills because the use is so regulated. The use should not be on wetlands. Requiring a conditional use permit is very appropriate. It needs to be carefully and thoughtfully studied. There is a need for a slaughterhouse or two. Have definition regulations on how they’re operated and where they’re located.

Carol Perry stated she supports the ordinance. There was marvelous testimony before the Planning Commission. Most of the people who testify are from the city, have never lived on a farm, have never seen an animal slaughtered, and are against eating meat. Don’t delay adoption.

Roger Bajema stated that if agriculture is going to survive, let them have a slaughterhouse. It’s stressful for cattle to be transported to a distant packinghouse. Help farmers stay in business.

Wes Kench stated he supports the ordinance. Lack of regulations won’t cause problems. The county needs an economic boost. It will provide jobs. There won’t be 88,000 acres of slaughterhouses. The county can’t support more than two or three slaughterhouses. Rules and regulations are in place.

Ben Elenbaas stated he supports the ordinance. No one is asking for a rezone of 88,000 acres. They are only asking for a definition for an agricultural accessory use. It is compliant with the 13 goals of the GMA and with the County Comprehensive Plan. There is infrastructure in the agricultural zone that supports the berry and dairy industries. His business relies on a packing facility. It’s equal to a milking parlor. Nothing in Title 20 regulates the size of a milking parlor or the number of allowed milking parlors. The agricultural district isn’t littered with them. Acknowledge that slaughtering is the most highly regulated agricultural activity. Just because the use isn’t regulated by the Planning Department doesn’t mean it’s not regulated. No other agricultural activity has a federal inspector on site. The ordinance will benefit farmers and consumers who want to buy local.

Hearing no one else, Kershner closed the public hearing.

(8:37:53 PM)

Knutzen moved to adopt the ordinance.

Brenner asked if one of these operations would be allowed in frequently flood area governed by critical areas regulations. Fleischmann stated he’s not familiar with how the River and Flood Division would regulate it, but they review every proposal in the flood zone.
Mark Personius, Planning and Development Services Department, stated the regulations allow building above the flood plain level.

Knutzen asked if an activity like that could get flood insurance. He doesn't think it could.

Personius stated the use isn't regulated, but the structure is. Much of the concern about water quality, which ties into flooding, is the requirement to have the Department of Ecology approve a State waste discharge permit. The State would be highly unlikely to do that in a frequently flooded area.

Brenner asked if there are basic humane rules for worker treatment. Someone talked about the inhumane treatment of the workers.

Crawford stated the comment was that workers were more prone to domestic violence because they were desensitized.

Brenner asked if a facility would have to obey water rights laws, just like everyone else. Personius stated they would have to get a water right or some adequate water supply. The existing processing facility is subject to that requirement. The biggest issue is getting the water right and making sure it's adequately treated.

Brenner asked about a concern that 88,000 acres being turned into packinghouses. She asked how many would be allowed if everyone who met all requirements could develop a packinghouse. Personius stated the concern is about the proliferation of these uses. People have supplied the needs analysis based on the number of cattle and their turnover. All of that processing occurs outside the county except for the local slaughterhouse, which is a minor amount. One option is to limit the number of facilities, but the market will dictate that limit.

Brenner stated it's hard to get water rights. There aren't a lot available. Personius stated these will be capital-intensive businesses. It will take a lot of capital upfront to do the necessary planning and get permits. Only folks who are serious about this will put the money into it.

Weimer asked about the definition of packinghouses limiting those facilities to only cured and smoked meats versus fresh cuts of meat. He asked how staff would interpret that definition and if an applicant could supply fresh cuts of meat to the community. Personius stated he's comfortable that it would allow fresh meat products.

**Brenner moved** to amend the definition of packinghouse, section 27.97.282.1, "...into cured, smoked, canned or other prepared meat products, including the cutting and wrapping of fresh meat.” Their purpose was to expand the types of meat, not to eliminate fresh meat.

Knutzen stated he is against the motion to amend. They researched this and did a lot of work on it. They also researched the definition of slaughterhouse. The difference between the two is that a slaughterhouse would just cut these things in half and send them out the door. These are two different things. The packinghouse will supply a finished product. The U.S. Department of Agriculture (USDA) does a fine job of defining it. The
Council has gone through this process for over a year. He’s comfortable with the ordinance the way it is. It includes a lot of compromises. The Council has done its due diligence. If they make changes, they will have to open this up to another public hearing. It’s time to move on.

Brenner stated this amendment would not require another hearing. It’s a clarification, which doesn’t require another hearing.

Kershner stated legal counsel is indicating that adding the word “fresh” to the definition would not trigger another public hearing.

Brenner restated and amended her motion to amend the definition of packinghouse, section 27.97.282.1, “..into fresh, cured, smoked, canned or other prepared meat products.”

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Kershner, Weimer and Kremen (6)

**Nays:** Knutzen (1)

Brenner moved to amend to include language, "Packinghouses shall not be allowed on frequently flooded areas." It is based on a map that shows frequently flooded areas.

Crawford stated it’s a huge, substantive change. He’d be surprised if the attorney allows them to make a change without another hearing. Regardless, constructing in an area threatened by flood hazards requires an expensive building design up to and above the flood line. That is in designated flood zones. Frequently flooded areas maps covered about half the agricultural zone.

Brenner stated that map was the critical aquifer area map. She has a map of frequently flooded areas map that shows very narrow ribbons of area. A property owner would have to move the use to a part of the property that isn’t frequently flooded.

Crawford stated that would require more study by the Council to find out the extent and impact of the motion. He would want to hear from flood staff who review building permits. This motion opens up many other issues.

Kremen stated he supports the intent of the motion. However, adopting the amendment would require another public hearing.

Kershner stated legal counsel indicates that the motion to amend would require another public hearing.

Mann stated the requirement to have a second public hearing isn’t a good criterion for not making a change. If the change is good enough, it should be done. Requiring a conditional use permit would take care of Councilmember Brenner’s concern. Many of these questions about water quality, pollution pathways, and frequently flooded area can be addressed on a case-by-case basis. They can learn as they go what it’s like to monitor, permit, and live with these uses. He’s been trying to figure out a way to support slaughter in the agricultural zone. He can’t support it as an accessory use, only as a conditional use.
Kremen stated he has a concern that the public expressed tonight regarding ambiguous language in section 20.40.114(9) about avoiding prime agricultural soils. He asked if this language is strong enough to enforce.

Karen Frakes, Prosecutor’s Office, stated that should be discussed in executive session.

**Brenner’s restated her motion** to amend to include language, “20.40.114(11) Disallow packinghouses in frequently flooded areas.” She asked if another hearing is required if the proposed amendment is more restrictive, or only if the amendment broadens the allowed use. Frakes stated that’s not correct. If there is a substantial change to the proposed ordinance, there needs to be another public hearing, whether they tighten or loosen the regulation.

Kremen stated he agrees with the intent, but the language is a problem. It would have to be more specific or delineate what exactly a frequently flooded area is.

Knutzen asked if there are any restrictions on other uses in the agricultural areas that restrict them from building in a frequently flooded zone, such as berry or dairy distilleries. Personius stated there may be permit restrictions on a site-by-site basis, but not in the code.

**Brenner’s amended her motion** to amend to include language, “20.40.114(11) In frequently flooded areas, when there is area available on the property that’s not frequently flooded.”

The motion failed by the following vote:

**Ayes:** Brenner and Mann (2)

**Nays:** Crawford, Knutzen, Kershner, Weimer and Kremen (5)

**Weimer** stated he has an amendment to address the concerns of Councilmembers Brenner, Kremen, and Mann to address concerns about water quality, water quantity, prime agricultural soils, critical areas, hazardous areas, and public notice and comment. He moved to amend to strike all of section 20.40.100, Accessory Uses, and change section 20.40.164 (1), “The total allowable building area is larger than 7,000 square feet and no larger than 20,000 square feet.” Everything would be approved with a conditional use permit. They can address all those concerns on a case-by-case basis.

(9:08:13 PM)

Mann stated he supports Council Weimer’s motion to amend. That’s the simplest way to resolve the concerns. He would vote for the entire ordinance if the Council approves that amendment. He worked on a farm and supports the concept of having slaughterhouses in the agricultural zone. It’s good. He wants to buy and eat local meat. He wants to know his farmer. The original intent of this process was good. Over time, it’s become polarized to the extreme. He appreciated any comments from the middle regarding the content of the ordinance. He would like to incorporate some of those ideas. They can address a lot of the concern with the conditional use permit. They talk about all the other regulations that are overlaid on the slaughterhouses. He doesn’t know that a conditional use permit process will be more onerous. It would have to go before the Hearing Examiner and the neighbors
Knutzen stated this originally came from the Planning Department as a permitted use. They compromised and made it an accessory use, with the stipulation that the Planning Department would mail notices to all the neighbors. They’ve considered this amendment several times already. No one wants to run a conditional use permit business. All the properties for sale on the Guide Meridian are a good example of how well that works.

Kremen asked if berry processing facilities are a conditional use. Fleishmann stated they are permitted outright for up to 20 employees. It’s an accessory use when there are more than 20 employees.

Kershner stated that when this ordinance first came to the Council, it modeled the exact businesses in the agricultural zone. The Planning Commission did a good job researching and modeling an ordinance that was exactly what they already have.

Brenner stated they’ve heard many comments about how many facilities would be viable in Whatcom County. Consider limiting the number allowed to six, with a condition that the permit for the facility would expire if the facility isn’t used. Don’t tie up the number of allowed facilities if a facility isn’t operating.

Knutzen stated the Growth Management Act calls this an accessory use that supports agriculture.

Brenner stated accessory uses have limits. She doesn't support a conditional use on smaller operations.

Knutzen stated conditional use is based on size. The smaller facilities are an accessory use, and the larger facilities are a conditional use.

The motion to amend failed by the following vote:

Ayes: Mann, Kremen and Weimer (3)
Nays: Brenner, Crawford, Kershner and Knutzen (4)

Brenner moved to limit the number of allowed slaughterhouses to six.

Kremen stated six is too many. Even the proponents of this ordinance say they only need two or three facilities in Whatcom County. If they are going to set a limit, it should be no more than three. If there is a future need, the Council can change the number of facilities allowed in the future.

Brenner amended her motion and moved to limit the number of allowed slaughterhouses to three.
Kershner stated she is against the motion to amend. This is not a business plan. This is a code that allows a use. It's not up to the Council to decide how many packinghouses they need in the county. It's up to the farmers to decide based on economics.

Knutzen stated they discussed this already, and decided it's not good for the ordinance. They concluded that 75 percent of the product would come from Whatcom, Skagit, or Island counties. That will limit the amount of product they can process and the number of facilities.

Kershner asked how many of the three allowed would be the larger size and how many would be the smaller size.

Brenner stated limit to three small facilities allowed as an accessory use.

Crawford stated they debated this several months ago. This is tricky constitutional territory when they start telling business how many locations can exist. Also, they discussed the hypothesis that one company could immediately apply for the three and monopolize the business. Don't limit the number allowed. He asked the attributes of a limit.

Kremen stated he didn’t say he would support the amendment. If there is going to be a limit, a better limit would be three.

Brenner asked if there is a constitutional issue with limiting the number allowed to three. Frakes stated they've gone over this before. There isn't a problem with a limitation.

Mann stated he is against the motion. He agrees with Councilmember Crawford. This goes against his basic principles of how capitalism and the government should intersect. The limit feels arbitrary. Set the rules, and let the market sort out how to best achieve it. Require a conditional use for all these facilities, and they can have as many as the market will bear. He doesn't like a limit, but it might achieve some of the protections that some citizens have asked for. He's conflicted about it. He asked if Councilmember Brenner would support the conditional use amendment if this fails.

Brenner stated she would not.

The motion failed by the following vote:

Ayes: Brenner, Mann and Weimer (3)

Nays: Crawford, Knutzen, Kershner and Kremen (4)

Kershner stated sections 20.40.114(5-7) address the concerns about water quality. That language was included to protect the public from a slaughterhouse discharging into the rivers or groundwater. They can’t do it. It isn’t permitted. Also, they talked about flood areas, slides in Acme, and other critical areas around the county. The critical areas ordinance will prevent a packinghouse from being sited in a critical area. One person testified it takes 600 gallons of water to make a hamburger. She would like to see the source of that data. All the water out of slaughterhouses is recycled. Dairies recycle water. It's possible to do. This is not a rezone of 88,000 acres. It adds a use to the agricultural
zoned land. She agrees with Wendy Harris, who testified that they must allow farmers to
make a profit for a feasible agricultural community. The Planning Commission
recommendation was a simple ordinance. This is a compromise to ensure public safety,
allow the use, and add value-added product to the farming community. She fully supports
the ordinance.

**Brenner moved** to add language that they do not allow packinghouses in critical
areas.

*(Clerk’s Note: This motion was not voted on.)*

Kershner stated this will have to comply with the critical areas ordinance.

Brenner stated Planning staff said this does not preclude them. Frequently flooded
areas are critical areas.

Kremen referenced finding five, which requires that the zoning amendment be
consistent with the Growth Management Act and County Comprehensive Plan.

Brenner asked if the Comprehensive Plan or Growth Management Act preclude the
building of a packinghouse in a critical area. She’s concerned about more than just critical
areas.

Crawford stated the critical areas ordinance is a layer of protection for certain
locations that meet certain criteria. The critical areas ordinance doesn’t say one can’t build.
It provides a menu of options that push building into the least impactful way. If impacts
can’t be avoided, they must be mitigated. There isn’t language that says one can’t build a
packinghouse or anything else in a critical area. The Code is designed to inhibit activity in
critical areas, not prohibit activities. If an activity has an impact, the impact must be
mitigated by improvements.

Mann stated a lot of the concerns that Councilmember Brenner is bringing up one at
a time would be addressed on a case-by-case basis under a conditional use permit. Require
a conditional use permit for all these facilities, regardless of the size. The concerns will be
addressed each time.

Knutzen stated the concerns will be addressed with an accessory use permit as well.

Brenner stated she doesn’t want a conditional use on small facilities. If they don’t
allow the small facilities as an accessory, they will only have bigger facilities.

The motion to adopt as amended carried by the following vote:

**Ayes:** Crawford, Knutzen, Kershner and Kremen (4)

**Nays:** Weimer, Mann and Brenner (3)

**OPEN SESSION**

*(9:37:07 PM)*
The following people spoke:

- Bob Burr spoke about allowing revised candidate statements for the voter’s pamphlet.
- Joy Gilfillen spoke about the environmental impact statement for the proposed new jail.
- Kris Halterman spoke about not discouraging business from coming to Whatcom County.
- Yoshi Revelle spoke about the justice system and packinghouse ordinance.
- Ronna Loerch spoke about a site for the proposed new jail.
- Chet Dow spoke about the proposed new jail.
- Irene Morgan spoke about the proposed new jail and jail alternatives.

CONSENT AGENDA

(9:55:17 PM)

Mann reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through nine.

The motion carried by the following vote:

Ayes:  Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE A MEMORANDUM OF AGREEMENT BETWEEN WHATCOM COUNTY AND PROFESSIONAL & TECHNICAL EMPLOYEES 17 (AB2013-293)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO RENEW INSURANCE FOR THE WHATCOM CHIEF FERRY FOR POLICY YEAR 09/30/2013 THROUGH 09/30/2014 (AB2013-294)

3. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF BELLINGHAM FOR 2013 BYRNE JUSTICE ASSISTANCE GRANT FUNDS TO PURCHASE TRAINING EQUIPMENT AND SUPPLIES IN SUPPORT OF REGIONALIZED ACTIVE SHOOTER RESPONSE TRAINING, IN THE AMOUNT OF $12,878 (AB2013-295)

4. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SEA MAR COMMUNITY HEALTH CENTERS FOR OUTPATIENT SUBSTANCE ABUSE SERVICES, IN THE AMOUNT OF APPROXIMATELY $203,000 PER YEAR FOR A TWO-YEAR PERIOD (AB2013-296)

5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON NW FOR OUTPATIENT SUBSTANCE ABUSE SERVICES, IN THE AMOUNT OF APPROXIMATELY $672,000 PER YEAR FOR A TWO-YEAR PERIOD (AB2013-297)
6. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND WHATCOM COUNSELING & PSYCHIATRIC CLINIC FOR OUTPATIENT SUBSTANCE ABUSE SERVICES, IN THE AMOUNT OF APPROXIMATELY $316,000 PER YEAR FOR A TWO-YEAR PERIOD (AB2013-298)

7. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID 13-64 AND ENTER INTO A CONTRACT FOR THE CONSTRUCTION IMPROVEMENTS TO THE LIGHTHOUSE MARINE PARK BOAT RAMP TO LOW BIDDER, HB HANSEN CONSTRUCTION, IN THE AMOUNT OF $241,058.79 (AB2013-299)

8. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID 13-63 AND ENTER INTO A CONTRACT FOR THE CONSTRUCTION OF A CONCRETE PAD AT CENTRAL SHOP TO LOW BIDDER, NORTHERN CONCRETE AND CONTRACTING, IN THE AMOUNT OF $54,033 (AB2013-300)

9. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO PURCHASE REPLACEMENT COMPUTERS FOR THE HEALTH DEPARTMENT THROUGH THE WASHINGTON STATE CONTRACT, FOR A TOTAL OF $62,158.14 (AB2013-301)

OTHER ITEMS

1. RESOLUTION APPROVING A SCHEDULE FOR JOINT COUNTY AND CITY REVIEW OF URBAN GROWTH AREAS (AB2013-303A) (9:55:57 PM)

Knutzen reported for the Planning and Development Committee and moved to approve the resolution.

Crawford stated the Lummi Tribal representative invited the group to go to the new tribal center for the December meeting. It’s one of the most spectacular buildings in Whatcom County.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

2. ORDINANCE REPEALING ORDINANCE 2013-037, WHICH IMPOSED AN INTERIM MORATORIUM ON THE ACCEPTANCE OF NEW APPLICATIONS FOR DIVISIONS OF LAND RESULTING IN LOTS SMALLER THAN FIVE ACRES WITHIN THE LAKE WHATCOM WATERSHED (AB2013-277) (9:57:16 PM)

Mann moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)
3. REQUEST CONFIRMATION OF COUNTY EXECUTIVE’S APPOINTMENT OF JON STRONG TO THE BICYCLE/PEDESTRIAN ADVISORY COMMITTEE (AB2013-304) (9:58:13 PM)

Kremen moved to confirm the appointment.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

4. APPOINTMENT OF ONE COUNCILMEMBER TO SERVE ON A REVIEW COMMITTEE THAT WILL EVALUATE THE COMPOSITION OF THE WHATCOM TRANSPORTATION AUTHORITY BOARD OF DIRECTORS (AB2013-307) (9:58:46 PM)

Kershner moved to nominate and appoint Councilmember Kremen.

Crawford asked if it’s a conflict for the current board member to sit on a committee that evaluates the composition of the board.

Dana Brown-Davis, Clerk of the Council, stated that according to WTA staff, the representative can be the same as the WTA Board representative.

Karen Frakes, Prosecutor’s Office, stated it’s not a legal conflict of interest. She understands what Councilmember Crawford is saying, but the WTA has the right to have whomever it wants to review the makeup of their Board. If the WTA is okay with sitting members, then it’s fine.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

5. NOMINATION AND APPOINTMENT TO FILL ONE VACANCY ON THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT ADVISORY COMMITTEE, GEOGRAPHIC AREA REPRESENTATIVE - APPLICANT(S): IAN SMITH (AB2013-308) (10:01:38 PM)

Brenner moved to appoint Ian Smith.

The motion carried by the following vote:
Ayes: Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)
Nays: None (0)

INTRODUCTION ITEMS

(10:02:08 PM)

Mann moved to accept the Introduction Items, including the substitute document for Item three.
The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

1. **ORDINANCE AMENDING THE WHATCOM COUNTY BUDGET, TENTH REQUEST, IN THE AMOUNT OF $832,504 (AB2013-305)**

2. **ORDINANCE ADOPTING AMENDMENTS TO THE POINT ROBERTS CHARACTER PLAN (AB2013-306)**


**OTHER BUSINESS**

*(10:02:39 PM)*

Brenner reported for the Public Works, Health, and Safety Committee regarding the resolution approving the Whatcom County Six-Year Transportation Improvement Program for the years 2014 through 2019 (AB2013-302) and stated the committee made amendments to the resolution.

*Brenner moved* to have the Council Clerk transcribe the Planning Commission meeting minutes.

Kershner stated she supports the motion. Much detail is being left out of the Planning Commission minutes. Having more detailed minutes from the Planning Commission would alleviate much of the repetitive questions and actions the Council takes. She asked the Executive to transfer money from the Planning Commission budget to the Council budget to pay for the Council staff to transcribe Planning Commission minutes, when preparing the budget amendments for 2014.

Brenner stated that when they discussed the Open Space resolution, there was no information on how the Planning Commission voted. She had to call a Planning Commissioner to find out. The basic information wasn’t included.

Crawford stated get a general report from the Executive of what it would take for Planning staff to do more detailed minutes.

Kershner stated that when the Council adopted the budget last year, it recommended this transfer. The Planning Department said they would work to do a better job. That’s not happening. There is an opportunity in the budget process to move the responsibility to the Council staff.

Crawford stated it would be nice for the Council to express its concern to the folks who are responsible, and let them come to the Council with a recommendation on how to do it, rather than the Council dictate how to do it.
Kershner stated she agrees. They did that, but it’s not working. Even the Planning Commission didn’t remember the details, and had to listen to their own tapes to get the details to answer questions for the councilmembers.

Brenner stated detail is missing from the minutes.

Kershner stated the detail missing is what the Commission has discussed and how the commissioners came to their conclusions. Then the councilmembers end up repeating the same discussions for months.

Mark Personius, Planning and Development Services Department, asked if the information was problematic for only the open space meeting.

Kershner stated there are other.

Personius stated a concern is that Council staff would not know the voices of the individual commissioners when transcribing from an audio recording.

Dana Brown-Davis, Clerk of the Council, stated Council staff would attend a few meetings to get to know the commissioners.

Crawford stated he is against the motion. He’s found the minutes valuable and doesn’t have trouble with them. This year, they’ve consistently gotten the minutes. A lot of it is good chairing, too. The Chair should recognize the people who speak. It shouldn’t be difficult to transcribe those things or hear who is talking. The votes need to be called out by the chair as to who votes which way. If that isn’t happening, it might be an issue with the Chair. If every speaker is recognized by name, and the votes are spoken out by the chair, he doesn’t see a problem. If he’d had any concern tonight about open space, he would have listened to the audio on the internet in the course of his research. He hasn’t had an issue with figuring out what is going on with the Planning Commission.

Brenner stated she has had an issue. She likes really specific minutes. It’s not an issue with the chair. It’s an issue with the minutes.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Knutzen, Kershner, Weimer and Kremen (6)

**Nays:** Crawford (1)

Mann stated he has had a couple of comments from people who want an extended comment period on the jail environmental impact statement (EIS). Send a recommendation to the Executive. Thirty days would be better than 15 days.

Kershner asked if the extension would cause a problem with making a purchasing decision before the purchasing agreement expires.

Crawford stated he encourages councilmembers to postpone a vote until two weeks from tonight, when the Executive can respond.

Brenner stated take a vote to indicate if they agree.
Brown-Davis stated have a discussion with the Executive. If necessary, she can schedule it before the Council in two weeks for a formal Council decision.

Mann stated he will talk to Executive Louws.

**Kremen moved** to request that the County Executive direct the appropriate Planning and Development Services Department staff to revisit the open space process, including the thresholds. It’s been 25 years since the program was developed, and things have changed significantly. It would be appropriate.

Crawford stated it’s laudable, but it opens up a set of difficult issues. They could ask the administration if things need to be changed. He would like to know specifically what needs to be changed. State law says they have to do this. He asked if the problem is with the way points are scored.

Kremen stated that is the problem.

Crawford asked which scores.

Kershner stated that’s what they need to review.

Crawford asked if they are asking for staff’s opinion.

Kremen stated that is exactly what he’s asking for. The Council can’t direct staff to do anything. The Council must go through the Executive. Make that request of the Executive to direct his Planning Department staff to revisit the open space application process. Staff is well aware of the concerns of the councilmembers. The open space programs are being abused and overused. They must tighten up what should be recommended and approved.

**Kershner suggested a friendly amendment** to include the Planning Commission in developing the new criteria.

**Kremen accepted** the friendly amendment.

Brenner stated the committee talked extensively today about what is wrong with the process.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Knutzen, Kershner, Weimer and Kremen (7)

**Nays:** None (0)

Kershner stated she would like to ask the Auditor if there is a chance for the voter pamphlet statements can be revised by all the candidates.
Brenner reported she attended an event at the new Lummi Tribal center.

Knutzen reported that he attended a Brigadoon Service Dogs charity auction. It’s a great organization. They help many people every year to place service dogs. The auctioneer at the event included comic relief.

**ADJOURN**

The meeting adjourned at 10:33 p.m.

The Council approved these minutes on ______________, 2013.

**ATTEST:**

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Kathy Kershner, Council Chair

Jill Nixon, Minutes Transcription
CALL TO ORDER
Council Chair Kathy Kershner called the meeting to order at 5:45 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL
Present: Barbara Brenner, Kathy Kershner, Bill Knutzen, Ken Mann, Pete Kremen and Carl Weimer
Absent: Sam Crawford

COMMITTEE DISCUSSION
1. DISCUSSION WITH CHIEF CIVIL DEPUTY PROSECUTOR DANIEL GIBSON REGARDING POTENTIAL LITIGATION (SWIFT CREEK) (AB2013-018)
Attorney Present: Dan Gibson

2. STRATEGY PLANNING DISCUSSION AND POSITIONS TO BE TAKEN REGARDING COLLECTIVE BARGAINING PER RCW 42.30.140(4)(A) (AB2013-018)
Attorney Present: None

Kershner stated discussion of agenda item one may take place in executive session pursuant to RCW42.30.110(1)(i) and agenda item two pursuant to RCW42.30.140 (4)(a). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, she will step out of the meeting to make a public announcement.

Knutzen moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:
Ayes: Brenner, Kershner, Knutzen, Mann, Kremen and Weimer (6)
Nays: None (0)
Absent: Crawford (1)

OTHER BUSINESS
ADJOURN

The meeting adjourned at 6:55 p.m.

The Council approved these minutes on ______ 2013.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

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

Jill Nixon, Minutes Transcription
**ORDINANCE amending the 2013 Unified Fee Schedule**

This ordinance amends the 2013 Unified Fee Schedule to incorporate a “Ferry Non-Payment Fee” that will be levied against ferry customers who board the ferry without proper payment or valid ferry punch cards in addition to the regular ferry fare owed.

**COUNCIL ACTION:**
8/06/2013: Introduced 5-1, Brenner opposed & Weimer absent. Hearing to be held 10/8/2013.
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 the 2013 Unified Fee Schedule

DATE: July 23, 2013

Requested Action:
Consideration of the attached ordinance that amends the 2013 Unified Fee Schedule to incorporate a "Ferry Non-Payment Fee" that will be levied against ferry customers who board the ferry without proper payment or valid ferry punch cards in addition to the regular ferry fare owed.

These changes will occur within thirty (30) days after the date of signature of this ordinance by the Whatcom County Executive.

Background and Purpose:
The Whatcom Chief Employees, the Whatcom County Council, and the State Auditor’s office have all verbally expressed issues and concerns regarding ferry customers boarding the Whatcom Chief without proper payment or valid ferry punch cards. Additionally, the State Auditor’s office has also verbally expressed concern regarding extending credit of the County and a lack of process to deter this behavior.

The intended action is to amend the 2013 Unified Fee Schedule to incorporate a “Ferry Non-Payment Fee” that will be levied against ferry customers who board the ferry without proper payment or valid ferry punch cards in addition to the regular ferry fare owed. The Ferry Non-Payment Fee mirrors the current Non-Sufficient Funds Fee in the 2013 Unified Fee Schedule.

Other Information:
Public Works is also developing a Non-Payment Form that the pursers on the Whatcom Chief will issue to any and all customers who board the Whatcom Chief without sufficient funds or valid punch cards.

Public Works Accounting is developing policies and procedures for this new task and will also provide a training class for all Whatcom County Ferry employees.

If you have any questions please call Frank Abart at extension 50678. Thank you.

Enc.
PROPOSED BY: ___ Frank Abart___

SPONSORED BY: BY: ___ Public Works ___

INTRODUCTION DATE: ________________

ORDINANCE NO. __________

AMENDING WHATCOM COUNTY 2013 UNIFIED FEE SCHEDULE

WHEREAS, The Whatcom County 2013 Unified Fee Schedule addresses interpretation of the rate schedule; and

WHEREAS, The Whatcom County Ferry, the Whatcom Chief, has reported issues with customers boarding the Whatcom Chief without proper payment or valid ferry punch cards; and

WHEREAS, The State Auditor’s Office has verbally expressed concerns regarding the non-payment issues; and

WHEREAS, The Whatcom County Council has also expressed concerns related to the non-payment of ferry fares; and

WHEREAS, The State Auditor’s Office has also verbally expressed concern regarding extending credit of the County and lack of process to deter this behavior;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that a "Ferry Non-Payment Fee" be levied against ferry customers who board the ferry without proper payment or valid ferry punch cards in addition to the regular ferry fare owed.

BE IT FURTHER ORDAINED that the Unified Fee Schedule be amended as set forth in the attached Exhibit A to this ordinance, and

BE IT FURTHER ORDAINED that this change will become effective within thirty (30) days after the date of signature of this ordinance by the Whatcom County Executive.
ADOPTED this ___ day of ________, 20__.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Kathy Kershner, Council Chair

APPROVED AS TO FORM:

[Signature]

Chief Civil Deputy Prosecutor

Jack Louws, County Executive

( ) Approved     ( ) Denied

Date Signed: ____________________
## Exhibit AB – 20132 Unified Fee Schedule Amendment

### Public Works - Ferry & Docks

<table>
<thead>
<tr>
<th>UFS#</th>
<th>Description</th>
<th>2012 Rate</th>
<th>20132 Rate</th>
<th>Rate Basis</th>
<th>Authorization</th>
<th>Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Passenger/Pedestrian</td>
<td>$ 4.00</td>
<td>$ 4.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>2.</td>
<td>Passenger/Pedestrian – Multiride</td>
<td>$ 40.00</td>
<td>$ 40.00</td>
<td>25 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>3.</td>
<td>Children under 12 W/ Parent</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>4.</td>
<td>Children 12 to Under 19 yrs –</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>5.</td>
<td>Needs Based Passenger/Pedestrian (Senior/Disabled/Income)</td>
<td>$ 17.00</td>
<td>$ 17.00</td>
<td>25 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>6.</td>
<td>Post-High School Full-time Students</td>
<td>$ 23.00</td>
<td>$23.00</td>
<td>25 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>7.</td>
<td>Lummi Tribe W/ I.D.</td>
<td>$ 0.00</td>
<td>$ 0.00</td>
<td>Foot Passage Only</td>
<td>WCC 10.34</td>
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</tr>
</tbody>
</table>

### Passenger Vehicles

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>9.</td>
<td>Bicycle W/Rider</td>
<td>$ 4.00</td>
<td>$ 4.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>10.</td>
<td>Motorcycle W/Driver</td>
<td>$ 5.00</td>
<td>$ 5.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>11.</td>
<td>Motorcycle W/Driver</td>
<td>$ 80.00</td>
<td>$ 80.00</td>
<td>25 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>12.</td>
<td>Vehicle W/Driver &lt; 8,001 lbs.</td>
<td>$ 10.00</td>
<td>$ 10.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>13.</td>
<td>Vehicle W/Driver ~8,001 lbs. – Multiride</td>
<td>$ 72.00</td>
<td>$ 72.00</td>
<td>10 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>14.</td>
<td>Vehicle W/Driver &lt; 8,001 lbs. – Multiride</td>
<td>$ 160.00</td>
<td>$ 160.00</td>
<td>25 Round Trips</td>
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### Exhibit AB – 20132 Unified Fee Schedule Amendment

#### Public Works - Ferry & Docks

<table>
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<tr>
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<tbody>
<tr>
<td>15. 5057</td>
<td>Needs Based Vehicle W/Driver Senior/Disabled/Income</td>
<td>$36.00</td>
<td>$36.00</td>
<td>10 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
</tbody>
</table>

**Larger Vehicles**

| 16. 5058 | Vehicle W/Driver 8,001 - 20,000 lbs. | $29.00 | $29.00 | 1 Round Trip | WCC 10.34 | Ordinance 2008-052 |
| 17. 5059 | Vehicle W/Driver 8,001 - 20,000 lbs. | $257.00 | $207.00 | 10 Round Trips | WCC 10.34 | Ordinance 2008-052 |
| 18. 5060 | Vehicle W/Driver 20,001 - 36,000 lbs. | $65.00 | $65.00 | 1 Round Trip | WCC 10.34 | Ordinance 2008-052 |
| 19. 5061 | Vehicle W/Driver 20,001 - 36,000 lbs. | $494.00 | $494.00 | 10 Round Trips | WCC 10.34 | Ordinance 2008-052 |
| 20. 5062 | Vehicle W/Driver 36,001 - 50,000 lbs. | $130.00 | $130.00 | 1 Round Trip | WCC 10.34 | Ordinance 2008-052 |
| 21. 5063 | Vehicle W/Driver 36,001 - 50,000 lbs. | $1040.00 | $1040.00 | 10 Round Trips | WCC 10.34 | Ordinance 2008-052 |
| 22. 5064 | Trailer under 16 feet | $15.00 | $15.00 | 1 Round Trip | WCC 10.34 | Ordinance 2008-052 |
| 23. 5065 | Trailer 16 – 30 feet | $31.00 | $31.00 | 1 Round Trip | WCC 10.34 | Ordinance 2008-052 |
| 24. 5066 | Trailer over 30 feet | $60.00 | $60.00 | 1 Round Trip | WCC 10.34 | Ordinance 2008-052 |
| 25. 5067 | Over width Vehicle/Trailers > 1 Lane | $50%Surcharge | $50%Surcharge | Surcharge | WCC 10.34 | Ordinance 2008-052 |

**Special Trips**

| 26. 5068 | Special Trips after regularly scheduled runs | $575.00 | $575.00 | Per trip surcharge | WCC 10.34 | Ordinance 2008-052 |

**Surcharge**

| 27. 5044 | Per Trip Surcharge | $0.00 | $3.00 | 1 Round Trip | WCC 10.34 | Ordinance 2010-054 |

#### Additional Fees

| 28. 5069 | Ferry Non-Payment Fee | $0.00 | $30.00 | Per Occurrence | WCC 10.34 | Ordinance 2008-052 |

### Department Fees and Charges
## Exhibit A – 2013 Unified Fee Schedule Amendment

### Public Works - Ferry & Docks

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<td>1. 5043</td>
<td>Passenger/Pedestrian</td>
<td>$ 4.00</td>
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<td>3. 5046</td>
<td>Children under 12 W/ Parent</td>
<td>$ 0.00</td>
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### Exhibit A – 2013 Unified Fee Schedule Amendment

#### Public Works - Ferry & Docks

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<td>16.</td>
<td>Vehicle W/Driver 8,001- 20,000 lbs.</td>
<td>$29.00</td>
<td>$29.00</td>
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<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>18.</td>
<td>Vehicle W/Driver 20,001- 36,000 lbs.</td>
<td>$65.00</td>
<td>$65.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>19.</td>
<td>Vehicle W/Driver 20,001 - 36,000 lbs.</td>
<td>$494.00</td>
<td>$494.00</td>
<td>10 Round Trips</td>
<td>WCC 10.34</td>
<td>Ordinance 2008-052</td>
</tr>
<tr>
<td>20.</td>
<td>Vehicle W/Driver 36,001- 50,000 lbs.</td>
<td>$130.00</td>
<td>$130.00</td>
<td>1 Round Trip</td>
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<td>Ordinance 2008-052</td>
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<tr>
<td>21.</td>
<td>Vehicle W/Driver 36,001 - 50,000 lbs.</td>
<td>$1040.00</td>
<td>$1040.00</td>
<td>10 Round Trips</td>
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<tr>
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<td>Trailer under 16 feet</td>
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<td>25.</td>
<td>Over width Vehicle/Trailers &gt; 1 Lane</td>
<td>50%Surcharge</td>
<td>50%Surcharge</td>
<td>Surcharge</td>
<td>WCC 10.34</td>
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**Special Trips**

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**Surcharge**

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**Additional Fees**

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# Resolution adopting the Six-Year Water Resources Improvement Program (WRIP), 2014-2019

**ATTACHMENTS:**
- Resolution
- Six-Year WRIP, 2014-2019
- Project Narratives

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

Resolution by the Whatcom County Flood Control Zone District Board of Supervisors adopting the Six-Year Water Resources Improvement Program (WRIP) for 2014-2019. The adoption by resolution is pursuant to the Revised Code of Washington (RCW 86.15.110).

**COMMITTEE ACTION:**

COUNCIL ACTION:
9/24/2013: Introduced

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**
MEMORANDUM

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

Through: Frank M. Abart, Director

From: Chris Brueske, P.E., Assistant Director

Date: September 11, 2013

Re: Resolution adopting the Six-Year Water Resource Improvement Program,
2014 – 2019

Enclosed for your review and consideration is a Resolution adopting the Six-Year Water Resource Improvement Program (WRIP) for 2014 – 2019.

Requested Action
Public Works respectfully requests that the Board of Supervisors hold a public hearing on October 8, 2013 and subsequently adopt the attached resolution.

Background and Purpose
Public Works has developed the Six-Year WRIP to outline future capital work for River & Flood, Stormwater, BBWARM, and Natural Resources. Adoption of a resolution outlining flood control or storm water improvements is required for the FCZD by RCW 86.15.110. In addition to complying with this statute, the WRIP is a strategic planning tool and provides an opportunity for public input on the proposed capital work program.

Funding Amount and Source
Cost estimates shown in the WRIP are for planning purposes only. The WRIP is not a budget document and does not authorize expenditures. The WRIP will be updated annually to show changes in cost estimates, revenues, grants, and project phasing.

Please contact Chris Brueske at extension 50693 if you have any questions or concerns regarding this document.
RESOLUTION NO. ________

(A Resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
Six-Year Water Resources Improvement Program
For the Years 2014 Through 2019

WHEREAS, pursuant to RCW 86.15.110, flood control or storm water control improvements may be extended, enlarged, acquired, or constructed by a zone pursuant to a resolution adopted by the Board of Supervisors; and

WHEREAS, Whatcom County Public Works Department on behalf of the Flood Control Zone District has prepared a Six-Year Water Resources Improvement Program for adoption; and

WHEREAS, pursuant to RCW 86.15.120, the supervisors shall hold a public hearing prior to adopting the resolution; and

WHEREAS, the Six-Year Water Resources Improvement Program attached hereto as Exhibit "A" has been reviewed and determined to be consistent with the County's comprehensive plan and is consistent with the following plans:

- Lower Nooksack River Comprehensive Flood Hazard Management Plan, October 1999
- Canyon Creek Alluvial Fan Risk Assessment, September 2003
- Jones Creek Debris Flow Study, March 2004
- WRIA 1 Salmon Recovery Plan, October 2005
- Lake Whatcom Comprehensive Stormwater Plan, March 2008
- Birch Bay Comprehensive Stormwater Plan, July 2006
- Swift Creek Sediment Management Action Plan, July 2013; and
WHEREAS, pursuant to RCW 86.15.110, for constructed improvements the preliminary engineering studies are on file with the Whatcom County Public Works Department; and

WHEREAS, pursuant to RCW 86.15.110, the estimated cost of the acquisition or construction of the improvement, together with supporting data is included in the Six-Year Water Resources Improvement Program; and

WHEREAS, the improvements will benefit one or more zones, subzones and the county as a whole;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors as follows:

1. That the Whatcom County Flood Control Zone District Six-Year Water Resources Improvement Program for the years 2014 through 2019, which is attached hereto as Exhibit “A”, is hereby adopted.

APPROVED this ___ day of _________, 2013.

ATTEST: 

[Signature]

Dana Brown-Davis, Clerk of the Council

[Signature]

Kathy Kershner, Chair of the FCZD

APPROVED AS TO FORM:

[Signature]

Daniel L. Gibson, Chief Civil Deputy Prosecutor

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**Notes:**
1. Estimated/Shown are planning level cost estimates. The Six-Year WRIP is not a budget document and does not authorize expenditures.
2. PE = Preliminary Engineering, RW = Property Acquisition, CN = Construction.
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**Notes:**
1. Expenditures shown are planning level cost estimates. The six year chart is not a budget document and does not authorize expenditures.
2. PE = Planning/Engineering, NW = Property Acquisition, ON = Construction

**Total:** $5,640,000
Coronado-Fremont Stormwater Improvements  
Database ID No. 07-099

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<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2013 / 2014</th>
</tr>
</thead>
</table>

**Project Narrative:**

Improvements will treat stormwater, promote infiltration, slow velocity to reduce erosion and sediment transport. In 2013, elements will include constructing a bio-infiltration swale and installing stormwater vaults. Creek restoration and installation of an additional treatment vault will occur in 2014.

**Project Status:**

Construction to begin in July 2013 of bio-infiltration swale and installation of stormwater vaults. In 2014, construction of creek restoration will occur with the annual watershed work window.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$1,085,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$715,000</td>
</tr>
</tbody>
</table>

![Site Location Map]
Academy Road Stormwater Improvements  
(Joint Project with City of Bellingham) 
Database ID No. 07-097

Construction Funding Year(s): 2015

Project Narrative:
Whatcom County has partnered with the City of Bellingham on a joint project to improve stormwater quality in the Academy sub-basin of the Lake Whatcom Watershed. The project will treat runoff from approximately 80 acres. Project elements will include a pretreatment unit, bioinfiltration swale, filter cartridge vault, high flow bypass, and a vegetated buffer along the lake front.

Project Status:
Preliminary engineering design will begin September 2013. Construction is expected to occur during the summer of 2015 Lake Whatcom watershed work window.

Total Estimated Project Cost: $945,000
Expenditures to Date: $75,000

Site Location
Cedar Hills / Euclid
Database ID No. 07-066

Construction Funding Year(s): 2016

Project Narrative:
Install rain gardens, filter vaults, and treatment swales.

Project Status:
Preliminary engineering design is anticipated to begin in 2014 with construction to take place during the summer of 2016 during the Lake Whatcom watershed work window.

Total Estimated Project Cost: $615,000
Expenditures to Date: $0-
**Agate Heights Estate / Bay Lane**

**Database ID No. 07-102**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2017</th>
</tr>
</thead>
</table>

**Project Narrative:**

System upgrades to improve water quality through construction of bio-infiltration swales and channel stabilization to reduce ditch erosion.

**Project Status:**

Preliminary engineering design is anticipated to begin in 2015 with construction to take place during the summer of 2017 during the Lake Whatcom watershed work window.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$500,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0-</td>
</tr>
</tbody>
</table>
Beaver Creek
Database ID No. 13-003

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2018</th>
</tr>
</thead>
</table>

**Project Narrative:**

Restore and repair eroded sections of Beaver Creek.

**Project Status:**

Preliminary engineering design is anticipated to begin in 2016 with construction to take place during the summer of 2018 during the Lake Whatcom watershed work window.

**Total Estimated Project Cost:** $445,000

**Expenditures to Date:** $0
**Sudden Valley**
Database ID No. 13-004

**Construction Funding Year(s):** 2019

**Project Narrative:**
Drainage system upgrades and outfall retrofits in Sudden Valley.

**Project Status:**
Preliminary engineering design is anticipated to begin in 2017 with construction to take place during the summer of 2019 during the Lake Whatcom watershed work window.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$515,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0-</td>
</tr>
</tbody>
</table>
Silver Beach Creek – Main Channel
Database ID No. 07-095

Construction Funding Year(s):
2020

Project Narrative:
Restoration of the main channel of Silver Beach Creek below Hillsdale using natural vegetation.

Project Status:
Preliminary engineering design is anticipated to begin in 2018 with construction to take place during the summer of 2020 during the Lake Whatcom watershed work window.

Total Estimated Project Cost: $135,000 (2018 - Preliminary engineering)
$450,000 (2020 - Construction)

Expenditures to Date: $0
<table>
<thead>
<tr>
<th><strong>Project Design (Future Projects)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Database ID No. TBD</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Construction Funding Year(s):</strong></th>
<th>2019</th>
</tr>
</thead>
</table>

**Project Narrative:**
Design of future projects in the Lake Whatcom watershed.

**Project Status:**
Anticipated in 2019.

<table>
<thead>
<tr>
<th><strong>Total Estimated Project Cost:</strong></th>
<th>$115,000</th>
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</thead>
<tbody>
<tr>
<td><strong>Expenditures to Date:</strong></td>
<td>$0</td>
</tr>
</tbody>
</table>

Due to the nature of this item, no map exists. Board of Supervisors review and prioritization will be sought at the appropriate time.
Beachway Drive & Fern/Park
Database ID No. 13-005

Construction Funding Year(s): 2014

Project Narrative:
This project will upsize an undersized outfall to Birch Bay, provide for local near shore drainage outlets, route upland water into the Beachway drainage system through grassed swales for improved water quality and away from low lying lots.

Project Status:
Design underway summer 2013 with construction late summer 2014.

Total Estimated Project Cost: $625,000
Expenditures to Date: $120,000
**Harborview Road Culvert Replacement**
**Database ID No. 07-217**

**Construction Funding Year(s):** 2015

**Project Narrative:**
Upsizing culverts along Harborview Road to reduce flooding.

**Project Status:**
Design will begin Fall 2013 with construction late summer 2015.

**Total Estimated Project Cost:** $225,000

**Expenditures to Date:** $60,000
### Construction Funding Year(s):

**2016**

### Project Narrative:

Improve conveyance from upland areas to reduce near shore flooding and to provide additional drainage connections along Birch Bay Drive. Water quality treatment options will also be incorporated.

### Project Status:

Design will begin January 2014 with construction in late summer 2016.

### Total Estimated Project Cost:

$820,000

### Expenditures to Date:

$0
Richmond Park
Database ID No. 07-271

Construction Funding Year(s): 2017

Project Narrative:
This project will reduce flooding in the Richmond Park neighborhood by rerouting a portion of the stormwater through the installation of a new drainage system to Birch Bay. Rerouting of peak stormwater flows will also reduce erosion in the gully at Deer Trail. Opportunities for water quality treatment will also be evaluated.

Project Status:
Design will begin January 2015 with construction late summer 2017

Total Estimated Project Cost: $1,420,000
Expenditures to Date: $0
**Wooldridge Drive Drainage Improvement**  
Database ID No. 13-007

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2018</th>
</tr>
</thead>
</table>

**Project Narrative:**  
Improve stormwater conveyance system to reduce street flooding and improve water quality.

**Project Status:**  
Design will begin January 2016 with construction late summer 2018.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$255,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$-0-</td>
</tr>
</tbody>
</table>

![Site Location Map]
North Bay Trailer Park Ditch Protection
Database ID No. 13-008

Construction Funding Year(s): 2019

Project Narrative:
Install conveyance system to accommodate concentrated flow and reduce erosion.

Project Status:
Design will begin January 2017 with construction late summer 2019.

Total Estimated Project Cost: $165,000
Expenditures to Date: $0
Birch Bay Drive and Pedestrian Facility  
Database ID No.: 07-030

Construction Funding Year(s): 2016

Project Narrative:
This project is located parallel to Birch Bay Drive from Cedar Avenue to the mouth of Terrell Creek. This is a 1.58 mile separated berm to provide soft-shore erosion protection, habitat enhancement, and encourage pedestrian use along Birch Bay Drive. While primarily a roadway project, it is included in the Six-Year WRIP to reflect contributions from both the FCZD and BBWARM.

Project Status:
Phase I of the Feasibility Study was completed in 2006. Phase 2A (Preliminary Construction Cost Estimate) was completed in 2007, and updated in spring of 2013. Preliminary Engineering will begin in late 2013, RW acquisition in 2014/2015 and construction in 2016/2017. The Six-Year WRIP includes transfers out of BBWARM and FCZD in 2016 to support construction.

Total Estimated BBWARM/FCZD Contribution: $500,000

FCZD/BBWARM Expenditures to Date: $0
Marietta Acquisition
Database ID No. 07-002

Construction Funding Year(s): 2001 - Present

Project Narrative:
Acquire residential properties in the frequently-flooded repetitive flood loss area of Marietta. Remove existing structures and restore properties with native vegetation.

Project Status:
Property acquisition began in 2001 and is still ongoing. As properties are acquired through tax title sales, purchases funded with hazard mitigation, habitat restoration grants, and FCZD funding, structures are removed and native vegetation is planted. All acquisitions are voluntary and the project is ongoing asnal property owners decide to sell their properties.

Total Estimated Project Cost: TBD
Expenditures to Date: $720,000
Canyon Creek Restoration
Database ID No. 07-133

Construction Funding Year(s): 2009, 2013 - 2014

Project Narrative:
Acquire high-risk properties on Canyon Creek alluvial fan, setback existing levee to edge of active alluvial fan and construct 23 engineered log jams (ELJ’s) to restore habitat and improve reliability of flood protection.

Project Status:
Property acquisition complete. Phase 1 removed the lower 520 feet of levee in 2009. Setback of the rest of the levee and construction of 12 ELJ’s underway in 2013. Construction of additional 11 ELJ’s is scheduled for 2014 construction.

Total Estimated Project Cost: $5,840,000
Expenditures to Date: $4,260,000
# Deming Levee Improvement Project

**Database ID No. 07-106**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2015</th>
</tr>
</thead>
</table>

## Project Narrative:

Realign and improve low-lying berm at upstream end of Deming levee to increase level of flood protection to the Mt Baker School District and Nooksack Tribal facilities, and the town of Deming.

## Project Status:

An alignment for the improved levee has been selected and detailed design is underway; potential impacts to wetlands will require mitigation; studies are being conducted to evaluate the extent of mitigation that will be required.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$2,700,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$300,000</td>
</tr>
</tbody>
</table>

---

![Map of Deming Levee Improvement Project Site Location](map.png)
Jones Creek Debris Flow Protection
Database ID No. 07-105

Construction Funding Year(s): 2016

Project Narrative:
Acquire residential properties in the high hazard area of the Jones Creek alluvial fan and construct setback deflection berm to route debris flows around the town of Acme. Project includes potential realignment and bridge improvements at Turkington Road.

Project Status:
Property acquisition began in 2005 and additional properties will need to be acquired. Preliminary design has been performed for the deflection berm and alternatives are currently being evaluated for Turkington Road.

Total Estimated Project Cost: TBD
Expenditures to Date: $640,000
## Lower Nooksack Overflow Corridors

**Database ID No.:** Various

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>TBD</th>
</tr>
</thead>
</table>

### Project Narrative:

This item provides funding to implement the overflow corridors as recommended in the Lower Nooksack River Comprehensive Flood Hazard Management Plan (CFHMP). Work will include creating designed overflows and addressing impacts to private and public infrastructure within the corridors.

### Project Status:

Hydraulic modeling of the overflow locations recommended in the CFHMP has been performed for some reaches of the river; additional modeling and preliminary design is being done for Reach 1 (downstream of Ferndale) under an existing Estuary Salmon Restoration Program (ESRP) grant.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$530,000</td>
</tr>
</tbody>
</table>
High Creek Sediment Management  
Database ID No. 07-125

**Construction Funding Year(s):**  
2014 - 2015

**Project Narrative:**  
High Creek flooding damaged nearby homes and closed Mount Baker Highway in the mid-1990's. A legal settlement resulting from that event directs Whatcom County to prepare a creek management plan. Sediment management in the watershed including the 3400 feet of County owned right of way east of Kendal Creek will be an important plan element along with fish habitat mitigation. State permits for future maintenance dredging are dependent on management plan completion.

**Project Status:**  
Background materials have been collected and analyzed by staff. A consultant will be hired to review the existing information, gather supplemental data, evaluate alternatives, recommend a preferred option, assist with public outreach, and present financing recommendations. Accumulation of gravel at the SR 542 bridge will necessitate implementation of initial actions in 2014 to maintain winter flood conveyance.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $50,000 |

[Site Location Map]
System-wide Improvement Framework (SWIF)
Database ID No. 12-003

Construction Funding Year(s): TBD

Project Narrative:
The SWIF is a two-year planning process to develop a plan to reduce risk associated with levees and to address deficiencies identified by the US Army Corps of Engineers (USACE) during their periodic inspections. The SWIF will likely result in a set of capital improvements to the levee system, with an implementation strategy and schedule. Adherence to the implementation schedule will be necessary to ensure ongoing eligibility in the USACE's PL 84-99 rehabilitation program.

Project Status:
The USACE has approved the FCZD's request to develop a SWIF and the stakeholder process will be initiated in the fall of 2013. The SWIF plan development must be completed by June of 2015.

Total Estimated Project Cost: TBD
Expenditures to Date: $80,000
Sediment Management Pilot Project
Database ID No. 07-265

Construction Funding Year(s): TBD

Project Narrative:
The Lower Nooksack River Comprehensive Flood Hazard Management Plan includes sediment management as one of the components in the recommended plan. A pilot sediment removal project has been developed to evaluate the feasibility of removing gravel from the river and to improve the science associated with gravel removal to support the development of an overall sediment management strategy.

Project Status:
A preliminary design has been developed for a small-scale removal project near Holte Road. The proposal is being evaluated to determine the permitting process that will be required under the State Environmental Policy Act (SEPA) and what additional information will be required to permit the project.

Total Estimated Project Cost: TBD
Expenditures to Date: $150,000
City of Bellingham Squalicum Creek Berm  
Database ID No.: 13-009

Construction Funding Year(s): 2015

Project Narrative:
The City of Bellingham applied for and received Flood Hazard Reduction Funding from the Whatcom County Flood Control Zone District in 2001 (Resolution No. 2001-0033). The project involves construction of a berm along Squalicum Creek to protect property and allow construction of a new connector under Interstate 5.

Project Status:
Project design is underway. Construction is expected to occur during 2015. The FCZD is providing partial funding for the project and is not an active participant in the design or construction.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $800,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Maximum FCZD contribution)</td>
</tr>
<tr>
<td>Expenditures to Date: $ -0-</td>
</tr>
</tbody>
</table>
### Emergency/New Projects
Database ID No. 08-003

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2014 - 2019</th>
</tr>
</thead>
</table>

**Project Narrative:**
This item provides funding to address unanticipated projects resulting from new damage to flood control facilities.

**Project Status:**
Design and construction to occur as necessary.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$300,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this item, no map exists. Board of Supervisors review and prioritization will be sought at the appropriate time.
Swift Creek Phase 1 Projects
Database ID No. 13-0001

Construction Funding Year(s): TBD

Project Narrative:
Construction and operation of projects for the management of the sediment deposited from the Swift Creek landslide. Phase 1 to include: Sediment Traps, Upper Goodwin Reach Setback Levee, and Sediment Basins.

Project Status:
EIS completed, plan adopted by resolution July 2013; Work is on hold for Liability Consent Decree and State/Federal funding appropriations.

Total Estimated Project Cost: $TBD
Expenditures to Date: $1,315,000
Swift Creek North Fork Reroute Project
Database ID No. 13-0001

Construction Funding Year(s): TBD

Project Narrative:
Feasibility analysis for the reroute of North Fork of Swift Creek to reduce bed load and suspended sediment from the Swift Creek landslide.

Project Status:
Identified as a recommended response in the Swift Creek Sediment Management Action Plan. Feasibility analysis and conceptual design to begin in 2014; estimated cost $220,000.

Total Estimated Project Cost: TBD
Expenditures to Date: $0
**TITLE OF DOCUMENT:** Appointment to the Whatcom County Appeals Board

**ATTACHMENTS:** Application for Appointment

**SEPA review required?** ( ) Yes ( X ) NO
**SEPA review completed?** ( ) 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.)

County Executive Jack Louws requests confirmation of his appointment of Scott Van Dalen to the Whatcom County Appeals Board.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: A. Scott Van Dalen  Date: 9-9-2013

Street Address: 847 H Street Rd.

City: Lynden WA  Zip Code: 98264

Mailing Address (if different from street address): same

Day Telephone: 360-318-9726  Evening Telephone: 360-815-7979  Cell Phone: 360-815-7979

E-mail address: eaglebuildings@msn.com

1. Name of board or committee-please see reverse:

   County Appeals Board
   9-3-13  3 year Term

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.) (x) yes  ( ) no

4. Which Council district do you live in? (x) One  ( ) Two  ( ) Three

5. Are you a US citizen? (x) yes  ( ) no

6. Are you registered to vote in Whatcom County? (x) yes  ( ) no

7. Have you ever been a member of this Board/Commission? (x) 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? (x) yes  ( ) no

   If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Currently the owner of a local construction company - Eagle Contracting & Steel Building's Inc. I started this company in April of 2005 a bit over 8 years ago. Prior to that I have been locally in the construction trade since June of 1980. Graduate of Lynden High School.

10. Please describe why you’re interested in serving on this board or commission: I feel it is time to give back some time to the community and possibly help.

   References (please include daytime telephone number): Glenn Powell - Bank of the Pacific

   360-318-8780

Signature of applicant: A. Scott Van Dalen  9-9-13

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**

<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>SM</td>
<td>9/25/13</td>
<td></td>
<td>October 8, 2013</td>
<td>Council</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
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<tr>
<td>Dept. Head:</td>
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<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:** Whatcom County Library System Board appointment

**ATTACHMENTS:** Application for appointment; 09/18/13 letter from WCLS Executive Director

<table>
<thead>
<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>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) 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.)

County Executive Jack Louws requests confirmation of his appointment of Marvin Waschke to the Whatcom County Library System (Rural Library) 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](http://www.co.whatcom.wa.us/council)
September 18, 2013

Jack Louws, Whatcom County Executive
311 Grand Avenue, Suite 108
Bellingham, WA 98225

Dear Jack:

As you know, Position 2 on the Whatcom County Library Board of Trustees has been vacant since April 26, when Tom Burton resigned. After seeking candidates for several months, the Library Board personnel committee met with the two who submitted applications to your office. After thoughtful consideration, the Board enthusiastically recommends that Marvin Waschke of Ferndale be appointed to fill the vacant position. With your approval, Mr. Waschke would complete the term, which runs through January 31, 2018.

Mr. Waschke is a life-long resident of Whatcom County—you may recognize his address, he lives on land farmed by and named for his grandfather. He received his first WCLS card in 1955! He recently retired as a Senior Principal Software Architect from CA Technologies, where he developed enterprise computer systems and managed developmental groups. He is the author of a book, Cloud Computing, and is working on a second, Cloud Service Management. Now that he is no longer telecommuting, Mr. Waschke is eager to serve his community as a library trustee. His IT expertise, local connections, and sincere belief in the public library’s role in providing citizens access to ideas and information make him an excellent choice for this position.

The Board is eager for Mr. Waschke to begin serving as trustee. It would be wonderful if his appointment were approved prior to the Board’s October 15 meeting. Thank you for the opportunity to recommend this appointment to you. Please let me know if the appointment has been approved.

Sincerely,

Christine Perkins, Executive Director
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Marvin Waschke

Street Address: 5438 Waschke Road

City: Bellingham

Mailing Address (if different from street address):

Day Telephone: 360-962-2222    Evening Telephone: 384-4419    Cell Phone: 425-269-5592

E-mail address: mary@marvinwaschke.com

Date: 8/14/13

1. Name of board or committee—please see reverse: Royal Library Board

2. You must specify which position you are applying for. Please refer to vacancy list.

   Trustee

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.

   See resume attached. I am currently retired from CA Technologies (NASDAQ:)

   I was a senior software architect with a Divisional Vice President level title. My responsibilities included developing enterprise computer system designs and managing development groups. I worked with both private and government enterprises. I also worked with foreign companies.

10. Please describe why you’re interested in serving on this board or commission: I have always been a


   References (please include daytime telephone number): David Waschke 360-476-1524; Ephraim Moscow

   551-689-9887 (New York); Paul Lipton paullipton@ca.com

Signature of applicant: Marvin D. Waschke

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.
Objective
To use my experience and creativity help guide the Whatcom County Library System as a board trustee.

Experience
Senior Principal Software Architect (Divisional Vice President and)
1995-2013
Technology Owner of CA Service Desk product.
Responsible for all technical and design aspects of enterprise Service Desk Manager product. Under my technical management, SDM attained the dominant market share for enterprise service desks among the Fortune 500. The product is designed to scale from 50 to thousands of simultaneous service desk technicians and process tens of thousands of incidents per day. While SDM technology owner, I managed teams of up to 50 developers and designers. Customers included Allstate, HSBC, AXA-Equitable. SDM was notable for being one of the first large service desk products to provide out-of-the-box support for ITIL best practices.

Kirkland WA Development Center Manager,
Responsible for overall management of development center with over a hundred developers and support personnel.

Senior Product Advisor (Single contributor reporting to GM for service management products).
Working with BearingPoint consultants to develop core set of workflows for enterprise governance for Service Catalog product.

Supervised design and development of ITIL-based configuration management database, CA CMDB.

Developed prototype proof-of-concept products in Perl, Java, JavaScript for various projects

Senior Principal Software Architect (Single contributor reporting to CTO).
Elected to CA Council for Technology Excellence—a selected group of CA employees (80 out of 15,000) chosen for technical excellence and leadership.

Conceived of and designed the CA Unified Service Model, a model for managing IT services from strategy, design, implementation, deployment and operation.

Data modeling using XML, XSD, RelaxNG, UML, Schematron, OCL.

Received innovation award for design for a cloud governance management application.

Founder and editor-in-chief of CA Technology Exchange
http://www.ca.com/gx/gxdefault.aspx?

Author "Cloud Standards" published by Apress/CA Press

Standards participation
Distributed Management Task Force (DMTF)

- Configuration Management Database Federation Working Group
- Cloud Management Working Group
- Open Virtualization Format Working Group
- Common Information Model REST Interface Working Group
- Named DMTF Fellow after separation from CA Technologies

W3C

Service Modeling Language

Oasis

Topology and Orchestration Specification for Cloud Applications (TOSCA) Technical Committee


Software Engineer/Development Manager
Legent Corporation, Herndon, VA (Acquired by CA)
1994 – 1995

Design and code components of Service Desk product
Managed design and development of cell tower management system (joint development with McCaw Cellular and AT&T Wireless) in C++ on Solaris

Software Engineer
Networx, Bellevue, WA (Start up acquired by Legent)
1992 – 1994

Designed user interface and architecture for Service Desk product (core design still in use CA Technologies Service Desk Manager product)

Designed relational database for Service Desk product (design still in use in CA Technologies Service Desk Manager product)

Designed and coded components of object oriented application multi-platform development platform in C++

Coded to TCP/IP/UDP stack, SNMP

Ported Service Desk product from Sun-OS to HPUX and Solaris.

Represented Networx in Network Management Forum (became TMF) trouble ticket standard working group

Consultant
Unify Corporation, Sacramento, CA
1989 – 1992

Consultant to Boeing Company: Consulted on relational database design, contributed to design and development of object-oriented network management system in C and C++ on Sun hardware

Developer and Development Manager
DIS Corporation, Bellingham, WA
1985 – 1989
Developer: Basic, RPG, Cobol programing PC and System 36

Development Manager: Design and development of accounting, inventory and POS system based on an RDBMS and running on Unix (SCO on PC)

Education

High School
Ferndale High School
1967

Class speaker

Bachelor of Arts
University of Chicago, Chicago, ILL
1971

General Honors, The College: Special Honors, Social Sciences

Master of Arts
University of Chicago, Chicago, ILL
1973

Far Eastern Languages and Civilizations

Journeyman Carpenter Certificate
Washington State Apprenticeship and Training Council
1982

Third Place, Washington State Apprentice Carpenters Skills Contest

Bachelor of Science, Computer Science
Western Washington University, Bellingham, WA
1985

Interests
Currently working on book for Apress, Cloud Service Management, which addresses architectures for cloud implementations of service management applications.

Editing DMTF white paper on version 2.0 of the Open Virtualization Format standard.

Own and manage 30 acre farm near Ferndale, WA.

Avid reader, Pacific Northwest Ballet subscriber.

References
References are available on request.
## 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>Laurel Bald</td>
<td>9/30/2013</td>
<td></td>
<td>10/8/2013</td>
<td>Council</td>
</tr>
<tr>
<td>Division Head:</td>
<td></td>
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<tr>
<td>Dept. Head:</td>
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<tr>
<td>Prosecutor:</td>
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<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

### TITLE OF DOCUMENT:
Appointment to Noxious Weed Control Board, Applicant Nicholas Kunkel

### ATTACHMENTS:
application materials

### 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.)
Application from Nicholas Kunkel to fill the vacant District 4 position on the County Noxious Weed Control Board. Term expires 1/31/2017

### 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)

203
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Nicholas Kunkei
Street Address: 2621 W. Maplewood Ave #113
City: Bellingham
Mailing Address (if different from street address): N/A
Date: 9/18/2013
Zip Code: 98225
Day Telephone: (360) 312-2321 Evening Telephone: (360) 389-7603 Cell Phone: (360) 389-7603
E-mail address: nicholas.p.kunkei@gmail.com

1. Name of board or committee—please see reverse: Noxious Weed Control Board
2. You must specify which position you are applying for. Please refer to vacancy list. District 4 Seat 4 yr term
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: N/A
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: I am a limited capacity the Lummi Tribe does business with Whatcom County.
9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

I currently am employed with Lummi Natural Resources Department as the Harvest Sampling Biologist. My work with salmon and habitat restoration has involved a heavy emphasis on noxious, invasive, and non-native species mitigation. I have worked with the following natural resource organizations: Lummi Natural Resources Dept, Nooksack Salmon Enhancement Assoc, WA Dept of Fish and Wildlife and Prince William Sand Aquatic Assoc.

10. Please describe why you’re interested in serving on this board or commission: My experiences in natural resource management will make me an asset to the board in the fields of planning, implementation, and community outreach.

References (please include daytime telephone number):
Karl Mueller, Fisheries Biologist (360) 720-7251 Dana Wilson, Lummi Nat. Resources Commission (360) 961-2455

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.
DATE: 9/19/2013

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSION

WHATCOM COUNTY NOXIOUS WEED BOARD

I, Nicholas Kunke, seek the nomination of District 4 for the term of four years to the WHATCOM COUNTY NOXIOUS WEED BOARD.

THE UNDERSIGNED NOMINATE Nicholas Kunke TO REPRESENT THE WHATCOM COUNTY NOXIOUS WEED BOARD, DISTRICT 4, FOR THE TERM OF FOUR YEARS.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Trevor Duncan</td>
<td>2621 Maplewood Ave. #112</td>
<td>Bellingham</td>
<td>WA</td>
<td>98225</td>
</tr>
<tr>
<td>2.</td>
<td></td>
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<td>3.</td>
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<td>9.</td>
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<td>10.</td>
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</tbody>
</table>
MEMORANDUM

TO: Jill Nixon, Administrative Clerk
Whatcom County Council

FROM: Laurel Baldwin, Coordinator

RE: Noxious Weed Board appointment

DATE: September 30, 2013

At the September 24, 2013 meeting of the Whatcom County Noxious Weed Board, the application of Nicholas Kunkel to represent District #4 was unanimously supported by the Board. Please find his application and required signature page attached.

Please contact me at extension 50680, if you have any questions. Thanks!
# 2013 Supplemental Budget Request #12

**TITLE OF DOCUMENT:** 2013 Supplemental Budget Request #12

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

<table>
<thead>
<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>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) 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.)

Supplemental #12 requests funding from the Jail Fund:

1. To appropriate $660,730 to fund extraordinary medical costs from reimbursement proceeds.
2. To appropriate $300,000 to fund EDI grant for West Bakerview overpass project.
3. To appropriate $80,000 to fund outside repairs and maintenance.
4. To appropriate $400,000 to fund inventory purchases of road oil.
5. To appropriate $40,000 to fund contaminated soil clean up.
6. To appropriate $8,000 to fund grounds maintenance in and around Central Shop.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

| Related County Contract #: | Related File Numbers: | Ordinance or Resolution Number: |
SPONSORED BY: Finance  
PROPOSED BY: Executive  
INTRODUCTION DATE: 10/8/13

ORDINANCE NO.  
AMENDMENT NO. 12 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>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jail Fund</td>
<td>660,730</td>
<td>(660,730)</td>
<td>-</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund</td>
<td>300,000</td>
<td>(300,000)</td>
<td>-</td>
</tr>
<tr>
<td>Equipment Rental and Revolving Fund</td>
<td>528,000</td>
<td>(445,600)</td>
<td>82,400</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td><strong>1,488,730</strong></td>
<td><strong>(1,406,330)</strong></td>
<td><strong>82,400</strong></td>
</tr>
</tbody>
</table>

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: ____________________
## Summary of the 2013 Supplemental Budget Ordinance No. 12

<table>
<thead>
<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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</thead>
<tbody>
<tr>
<td>Jail Fund</td>
<td>To fund extraordinary medical costs from reimbursement proceeds.</td>
<td>660,730</td>
<td>(660,730)</td>
<td>-</td>
</tr>
<tr>
<td>Public Utilities Improvement Fund</td>
<td>To fund EDI grant for West Bakerview overpass project.</td>
<td>300,000</td>
<td>(300,000)</td>
<td>-</td>
</tr>
<tr>
<td><strong>Equipment Rental and Revolving Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Works ER&amp;R</td>
<td>To fund outside repairs and maintenance.</td>
<td>80,000</td>
<td></td>
<td>80,000</td>
</tr>
<tr>
<td>Public Works ER&amp;R</td>
<td>To fund inventory purchases of road oil.</td>
<td>400,000</td>
<td>(445,600)</td>
<td>(45,600)</td>
</tr>
<tr>
<td>Public Works ER&amp;R</td>
<td>To fund contaminated soil clean up.</td>
<td>40,000</td>
<td></td>
<td>40,000</td>
</tr>
<tr>
<td>Public Works ER&amp;R</td>
<td>To fund grounds maintenance in and around Central Shop.</td>
<td>8,000</td>
<td></td>
<td>8,000</td>
</tr>
<tr>
<td><strong>Total Equipment Rental and Revolving Fund</strong></td>
<td></td>
<td>628,000</td>
<td>(445,600)</td>
<td>82,400</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td></td>
<td>1,488,730</td>
<td>(1,406,330)</td>
<td>82,400</td>
</tr>
</tbody>
</table>
DATE: 09-16-2013

TO: Jack Louws, Whatcom County Executive
    Council Members, Whatcom County Council

FROM: Wendy Jones, Chief Corrections Deputy, for Sheriff Bill Elfo

RE: Supplemental Budget Request #1608 for Spending Authority for Extraordinary Medical Costs

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This supplemental request will provide spending authority for some extraordinary medical costs that were unanticipated during the 2013/2014 budget preparation.

Over the past 2 months, 2 offenders have been seriously injured during the arrest process. As a result, both offenders have incurred significant medical bills with both local and Seattle based providers. There will be additional rehabilitation and follow up surgeries over the next few months. When the 2013/2014 Corrections Bureau's budget was created, this level of extraordinary medical expenditures was not anticipated.

Charges for both of these offenders were filed by the City of Bellingham Police Department. Under the provision of both the Revised Code of Washington, and our interlocal agreement with the City, Bellingham will therefore be responsible for reimbursing the County for all medical expenditures for both of the offender until such time as their cases are settled.

This request will provide the spending authority within the Corrections Bureau's budget to pay all bills associated with these expenses, and will re-coup each expenditure via reimbursement by Bellingham.

Chief Wendy Jones is overseeing this process and will be happy to answer any question you may have. Thank you.
Supplemental Budget Request

Jail

Supp'l ID # 1602  Fund 118  Cost Center 118163  Originator: Wendy Jones

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

Name of Request: Extraordinary Medical Costs

[Signature] 9/20/13

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>4369.9001</td>
<td>Miscellaneous Revenues</td>
<td>($660,730)</td>
</tr>
<tr>
<td>6140</td>
<td>Overtime</td>
<td>$30,000</td>
</tr>
<tr>
<td>6210</td>
<td>Retirement</td>
<td>$2,800</td>
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<tr>
<td>6230</td>
<td>Social Security</td>
<td>$2,300</td>
</tr>
<tr>
<td>6259</td>
<td>Worker's Comp-Interfund</td>
<td>$630</td>
</tr>
<tr>
<td>6630</td>
<td>Professional Services</td>
<td>$40,000</td>
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<tr>
<td>6635.007</td>
<td>Health Care Services</td>
<td>$20,000</td>
</tr>
<tr>
<td>6635</td>
<td>Health Care Services</td>
<td>$500,000</td>
</tr>
<tr>
<td>6635.001</td>
<td>St. Joseph Hospital</td>
<td>$65,000</td>
</tr>
</tbody>
</table>

Request Total  $0

1a. Description of request:

This supplemental is to obtain spending authority to cover the extraordinary medical costs of 2 offenders who were seriously injured during the arrest process. Both offenders were arrested by Bellingham Police Department and therefore the City of Bellingham will be responsible for reimbursement to the County of all medical and some personnel costs connected with the treatment and guarding of these offenders. The costs connected with this request include the following:

- Treatment at both our local hospital and at Harborview.
- Ambulance and Med-flight services
- A variety of physicians both locally and in the Seattle area
- Physical therapy
- Guard detail both locally and via agreement with King County Department of Adult Corrections

Dollar amounts on this supplemental are estimates only, and should costs come in under these preliminary estimates, the spending authority would not be used for any other purpose.

1b. Primary customers:

City of Bellingham

2. Problem to be solved:

There have been 2 arrest situations that resulted in serious medical issues with the offenders. Current Jail budget is inadequate to cover these extraordinary expenses. This supplemental will allow all the resulting medical billing for these two events will be paid out of the Jail's budget, then reimbursed by the City of Bellingham.

3a. Options / Advantages:

The only other option would be for the City of Bellingham to negotiate directly with each provider, and pay the bills directly. However, according to RCW 70.48.130 while the Jail has ability to negotiate with providers to obtain discounts up to the current Medicaid rate, the City of Bellingham does not explicitly have this ability. The option of having the Jail handle this process is being done to take advantage of the
agreements the Corrections Bureau has negotiated over time with providers for discount rates, the leverage provided by the RCW, and to utilize the services of the Jail's medical billing clerk. This will allow the greatest cost containment on behalf of the citizens of Bellingham.

3b. Cost savings:
Discounts are unquantifiable at this time but will be tracked by the medical billing clerk.

4a. Outcomes:
NA

4b. Measures:
NA

5a. Other Departments/Agencies:
The City of Bellingham will be responsible for reimbursement of all bills paid under this budget supplemental.

5b. Name the person in charge of implementation and what they are responsible for:
Bellingham Chief of Police Cook. Chief Cook has already received authorization from the Mayor for these expenditures.

6. Funding Source:
Reimbursement by the City of Bellingham
MEMORANDUM

To: Whatcom County Council Members
From: Suzanne Mildner, Grants Coordinator
Subject: Supplemental Budget Request for EDI Program funding
Date: September 23, 2013

Attached is a Supplemental budget request for spending authority on an EDI loan and grant agreement for which budget authority is required on the grant portion.

The County Council previously approved funding for the loan portion of City of Bellingham’s West Bakerview Overpass project (early 2012). The EDI loan was paid out in 2012. At this time, the project is nearing completion and the EDI grant funding is needed, in accordance with the terms of the Interlocal Agreement.

The Interlocal Agreement with the City of Bellingham was approved and executed in early 2012. Your approval of this funding will allow the project to continue to completion. The funding source for this agreement is the Public Utilities Improvement Fund.

If you have any questions on this matter, please feel free to contact me at ext. 50118.

/Attachment
Supplemental Budget Request

Executive

Supp ID # 1621  Fund 332  Cost Center 332232  Originator: Suzanne Mildner

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

Name of Request: COB West Bakerview Overpass

X

Department Head Signature (Required on Hard Copy Submission)  Date

9/26/13

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>($300,000)</td>
</tr>
<tr>
<td>7220</td>
<td>Intergov Subsidies</td>
<td>$300,000</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
This is a request for EDI Program funding for an EDI Program grant for the City of Bellingham's West Bakerview Overpass project. In 2011 the City of Bellingham was awarded an EDI Program loan and grant, and in 2012 the budget authority was approved for the loan portion of funding ($350,000). The project is now nearing completion and the remaining grant funding, in the amount of $300,000, is needed.

1b. Primary customers:
City of Bellingham

2. Problem to be solved:
The City of Bellingham was awarded an EDI grant in the amount of $300,000, which funding will supplement state and other funding from a variety of sources for the West Bakerview Overpass project. This project will increase capacity and decrease delays through the I-5 Highway and West Bakerview Road area.

3a. Options / Advantages:
The EDI Board and County Council previously determined that this project meets the objectives of the EDI Program project guidelines.

3b. Cost savings:
N/A

4a. Outcomes:
Project completion is estimated to be by December 2013 or early 2014.

4b. Measures:
Final Project report

5a. Other Departments/Agencies:
City of Bellingham

5b. Name the person in charge of implementation and what they are responsible for:
City of Bellingham personnel will submit payment request and final report on project.

6. Funding Source:
Public Utilities Improvement Fund
MEMORANDUM

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

THROUGH: Frank M. Abart, PW Director

FROM: Eric L. Schlehuber, PW Equipment Services Manager

RE: 2013 Supplemental Budget Request- ER&R

DATE: September 10, 2013

Requested Action
Enclosed for your review and consideration are supplemental budget requests for 2013 (see attached Supplemental Budget Requests 1580, 1581 and 1585).

Background and Purpose
We are submitting a supplemental budget for the following reasons:

- Supp'l ID #1580
  - 2013 budget amounts were based on an average of prior year’s expenses which are higher than budgeted in 2013 for outside repairs and maintenance (incl. drydock) as follows:

<table>
<thead>
<tr>
<th>Item</th>
<th>Original budget</th>
<th>Budget increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Repairs &amp; Maintenance</td>
<td>$310,000</td>
<td>$80,000</td>
</tr>
</tbody>
</table>

- Supp'l ID #1581
  - ER&R procures material and supplies for use/resale to the partner divisions in Whatcom County such as M&O, Sheriff, Flood, etc. The 2013 and 2014 budgets for road maintenance supplies in M&O were increased for a higher level of road maintenance activity. Due to an error during the budgeting process, the budget in ER&R for 2013 and 2014 was not increased accordingly to accommodate the increased need for road materials and supplies for the M&O work plan. This action will correct the under-budgeting problem for 2013 and another supplemental can be anticipated for 2014.

<table>
<thead>
<tr>
<th>Item</th>
<th>Original budget</th>
<th>Budget increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchases for resale- Road oil</td>
<td>$908,000</td>
<td>$400,000</td>
</tr>
</tbody>
</table>

- Supp'l ID #1585
  - Unanticipated cost related to the installation of a concrete pad in the last remaining truck shed with a dirt floor at the Central Shop when contaminated soils were discovered with remedial costs of:
    o Soil disposal- $20,000
    o Outside engineering professional services- $9,000
    o Hauling of soil and associated dirt work by Road-M&O- $11,000
Supp'll ID #1602
- Underbudgeted costs for grounds maintenance (mowing, weedeating, blowing garbage pickup, etc.) done by the Jail Work crew in and around the Central Shop of $8,000.

Funding Amount and Source
Additional revenue is from increased inventory sales as noted above and fund balance/retained earnings.

Please contact Eric L. Schiehuber at extension 50607, if you have any questions or concerns regarding this request.
Supplemental Budget Request

Status: Pending

Public Works

Fund 501
Cost Center 501:00
Originator: Eric Schlehuber

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

Name of Request: Equipment Rental

Department Head Signature (Required on Hard Copy Submission)

Date 9/3/2013

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>2880,100</td>
<td>Retained Earnings</td>
<td>($80,000)</td>
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</tr>
<tr>
<td>7060</td>
<td>Repairs &amp; Maintenance</td>
<td>$80,000</td>
<td></td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
Higher than anticipated/under-budgeted outside repairs & maintenance (incl. ferry drydock- Foss Maritime) $80,000. Original budget of $390,000 for drydock contract AND all other outside repairs & maintenance for vehicles and equipment. Approved drydock contract approx. $344,000.

1b. Primary customers:

2. Problem to be solved:
Under budgeted for outside repairs & maintenance including drydock contract and all other outside vehicles and equipment repairs.

3a. Options / Advantages:
N/A

3b. Cost savings:
N/A

4a. Outcomes:
Completion of the annual ferry drydock and outside repairs for all other county vehicles and equipment.

4b. Measures:
N/A

5a. Other Departments/Agencies:
Potentially if there is insufficient budget authority to perform outside repairs & maintenance for all county fleet vehicles and equipment and have them back in service as soon as feasible.

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

6. Funding Source:
Retained earnings/fund balance.
# Supplemental Budget Request

**Status:** Pending

<table>
<thead>
<tr>
<th>Public Works</th>
<th>Equipment Services</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fund</strong> 501</td>
<td><strong>Cost Center</strong> 501300</td>
</tr>
<tr>
<td><strong>Originator:</strong> Eric Schlehuber</td>
<td></td>
</tr>
</tbody>
</table>

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

**Name of Request:** Equipment Rental Central Stores

![Signature]  
*9/3/2013*

**Department Head Signature (Required on Hard Copy Submission) Date**

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
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<td>Sales of Other Merchandise</td>
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<td>6480.3421</td>
<td>Purchases For Resale</td>
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<tr>
<td><strong>Request Total</strong></td>
<td></td>
<td><strong>$0</strong></td>
<td></td>
</tr>
</tbody>
</table>

1a. **Description of request:**

This supplemental budget is necessary for ER&R to procure road oil for use by the Maintenance & Operations to maintain county roads. Higher than anticipated/under-budgeted inventory purchases for road maintenance activities - road oil $400,000 (Paramount Petroleum, Contract #201306004 $1.3 million in supplies).

1b. **Primary customers:**

Citizens of Whatcom County

2. **Problem to be solved:**

ER&R procures materials and supplies to sell to Maintenance & Operations throughout the year for road maintenance. The 2013 budget for road maintenance was increased causing the need for larger amounts of materials. Due to an error during the budgeting process, a corresponding increase in the ER&R budget to purchase the materials was not completed to accommodate this increased level of service.

3a. **Options / Advantages:**

N/A

3b. **Cost savings:**

N/A

4a. **Outcomes:**

Sufficient materials will be on hand to meet the increased needs of Maintenance & Operations.

4b. **Measures:**

The budgeted levels of activity in Maintenance & Operations will be fully supported.

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:**

ER&R increased revenue from inventory markup on road supplies.
1a. Description of request:
ASR #2013-5015 was approved to install a concrete pad in the last truck shed with a dirt floor at the Central Shop. Contaminated soils were discovered as part of the prep work for this project and required that they be dealt with in an environmentally responsible manner. A consultant was brought in for oversight and the necessary DOE required reporting. These costs were unanticipated as part of the truck shed concrete pad project and have incurred the following expenses:

- Soil disposal at Cemex/Everett - $20,000.
- Engineering professional services - $9,000.
- Hauling of soil and associated dirt work by the Road Fund - $11,000.

1b. Primary customers:
Road Maintenance & Operations and the citizens of Whatcom County.

2. Problem to be solved:
Removal of contaminated soils with proper disposal in an environmentally and regulatory responsible and required manner.

3a. Options / Advantages:
N/A

3b. Cost savings:
N/A

4a. Outcomes:
Removal of all contaminated soils with proper disposal per DOE requirements.

4b. Measures:
"Clean" soil test results after removal of all contaminated soils.

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:
Fund balance/retained earnings.
## Supplemental Budget Request

**Status:** Pending

### Public Works
- **Fund:** 501
- **Cost Center:** 501600
- **Originator:** Eric Schliehuber

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

**Name of Request:** Grounds maintenance in and around Central Shop

**Department Head Signature (Required on Hard Copy Submission):** [Signature]

**Date:** 9/13/2013

### Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
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<tbody>
<tr>
<td>2880.1000</td>
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<td>6699.118</td>
<td>Other Services-Interfund</td>
<td>$8,000</td>
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</table>

**Request Total:** $0

### 1a. Description of request:
Under budgeted costs for grounds maintenance (mowing, weedeating, blowing garbage pickup, etc.) work done by the Jail Work Crew @ the Central Shop.

### 1b. Primary customers:
All users and customers of the Central Shop.

### 2. Problem to be solved:
Under budgeted costs for grounds maintenance (mowing, weedeating, blowing garbage pickup, etc.) in and around the Central Shop.

### 3a. Options / Advantages:
This is the best option by contracting internally with the Jail Work crew and maintaining county assets at the Central Shop.

### 3b. Cost savings:
N/A

### 4a. Outcomes:
Proper grounds/facility maintenance at the Central Shop.

### 4b. Measures:
N/A

### 5a. Other Departments/Agencies:
Increased funding to the Jail Work crew.

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

### 6. Funding Source:
Fund balance/retained earnings.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
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<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>Originator:</td>
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<td>9/26/13</td>
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<td>Dep. Head:</td>
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<td>Purchasing/Budget:</td>
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**TITLE OF DOCUMENT:** Flood Control Zone District 2013 Supplemental Budget Request #4

**ATTACHMENTS:** Resolution, Memoranda and Budget Modification Requests

<table>
<thead>
<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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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( x ) 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.)

Supplemental #4 requests funding from the Flood Control Zone District Fund:

1. To appropriate $8,000 to fund WRJA Planning Unit facilitation and meeting support services.

**COMMITTEE ACTION:**

**BOARD OF SUPERVISORS 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.
RESOLUTION NO.
(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

AMENDMENT NO. 4 OF THE 2013 BUDGET

WHEREAS, the 2013 budget for the Whatcom County Flood Control Zone District and Subzones was adopted November 20, 2012; and,
WHEREAS, changing circumstances require modifications to the approved 2013 budget; and,
WHEREAS, the modifications to the budget have been assembled here for deliberation by the Board of Supervisors,

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Flood Control Zone District Board of Supervisors that the 2013 budget as approved in Resolution 2012-035 is hereby amended by adding the following additional amounts to the budgets included therein:

<table>
<thead>
<tr>
<th></th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Flood Control Zone District</strong></td>
<td>8,000</td>
<td></td>
<td>8,000</td>
</tr>
</tbody>
</table>

ADOPTED this ____ day of ________________, 2013

WHATCOM COUNTY FCZD
BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Council Clerk

Kathy Kershner, Chair of the Board of Supervisors

APPROVED AS TO FORM:

[Signature]
Civil Deputy Prosecutor
<table>
<thead>
<tr>
<th>Flood Control Zone District and Subzones Supplemental #4</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Fund Balance</th>
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<tr>
<td><strong>Flood Control Zone District</strong></td>
<td><strong>To fund WRIA Planning Unit facilitation and meeting support services.</strong></td>
<td>8,000</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
<td><strong>8,000</strong></td>
<td><strong>-</strong></td>
<td><strong>8,000</strong></td>
</tr>
</tbody>
</table>
MEMORANDUM

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

THROUGH: Frank M. Abart, PW Director

FROM: Chris Brueske, PW Assistant Director

RE: 2013 Supplemental Budget Request – Flood Control Zone District

DATE: September 23, 2013

Requested Action
Enclosed for your review and consideration is a supplemental budget request for 2013 (see attached Supplemental Budget Request #1604).

Background and Purpose
This budget request is for partial funding for facilitation and meeting support services for the WRIA 1 Planning Unit (PU). The WRIA 1 Joint Board approved funding in the amount of $14,000 for facilitation services for four (4) meetings of the PU in 2013. However, the cost of the facilitation and meeting support services contract is approximately $22,000. This request provides for the difference of $8,000 from the Flood Fund. The PU is a very diverse caucus-based group and has historically utilized facilitation. Since the decision making on the PU is by consensus, facilitation increases the ability of the PU to succeed in its work.

Funding Amount and Source
Funding is from the Flood Fund balance.

Please contact Chris Brueske at extension 50693, if you have any questions or concerns regarding this request.
Supplemental Budget Request

Public Works                                   Flood Control Zone District

Supp1ID # 1804  Fund 169  Cost Center 169121  Originator: Chris Brueske

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

Name of Request: WRIA Planning Unit

X

Department Head Signature (Required on Hard Copy Submission)  Date

9/26/13

Costs:  

<table>
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<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<tr>
<td>2910.1000</td>
<td>Fund Balance</td>
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<td>6630</td>
<td>Professional Services</td>
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<tr>
<td>Request Total</td>
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<td>$0</td>
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1a. Description of request:

This budget request is for partial funding for facilitation and meeting support services for the WRIA 1 Planning Unit (PU). The WRIA 1 Joint Board approved funding in the amount of $14,000 for facilitation services for four (4) meetings of the PU in 2013. However, the cost of the facilitation and meeting support services contract is approximately $22,000. This request provides for the difference of $8,000 from the Flood Fund.

1b. Primary customers:

The Whatcom County Council and the citizens of Whatcom County. The County Council requested reconvening the PU under Resolution 2013-025.

2. Problem to be solved:

The PU is a very diverse caucus-based group and has historically utilized facilitation. Since the decision making on the PU is by consensus, facilitation increases the ability of the PU to succeed in its work.

3a. Options / Advantages:

Other options considered include:

1) Not using professional facilitation services. This would not lead to productive output from the PU. If the PU changes into a more traditional advisory committee, as contemplated in Resolution 2013-025, this option may become more feasible.

2) Conducting the facilitation with in-house staff. Public Works currently does not have capacity or expertise to conduct this work.

Facilitation will enhance to ability of the PU to produce the two main deliverables anticipated from the four (4) planned meetings: a report to Council on representation and a work plan/budget for 2014.

3b. Cost savings:

N/A.

4a. Outcomes:

The ideal outcome of this request would be:

1) a report to the County Council on representation on the PU, and

2) a work plan/budget for the PU in 2014.

During the last PU meeting in 2009, a consensus could not be reached on the future role of the PU.
4b. Measures:
Reports to Council for the two (2) deliverables shown about under Outcomes.

5a. Other Departments/Agencies:
The county Council has requested regular updates from the PU on their work. The PU will also interact with the WRIA 1 Initiating Governments through the Joint Board.

5b. Name the person in charge of implementation and what they are responsible for:
Chris Brueske, Assistant Director, is currently working on the effort to reconvene the PU.

6. Funding Source:
Flood Fund balance as authorized under RCW 39.34.190.
# WHATCOM COUNTY COUNCIL AGENDA BILL

**NO.** 2013-328

<table>
<thead>
<tr>
<th>CLEARANCES</th>
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<td>Gary Davis</td>
<td>6/0</td>
<td>9/1/13</td>
<td>10/8/2013</td>
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<tr>
<td>Division Head:</td>
<td>Mark Personius</td>
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<tr>
<td>Dept. Head:</td>
<td>Sam Ryan</td>
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<tr>
<td>Executive:</td>
<td>Jack Louns</td>
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**TITLE OF DOCUMENT:**
Title 20 Update

**ATTACHMENTS:**
1. Proposed Ordinance, including draft amendments and Findings of Fact and Reasons for Action
2. Staff Report
3. Memorandum from Title 20 Review Advisory Committee
4. Findings of the Planning Commission

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
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<table>
<thead>
<tr>
<th>Should Clerk schedule a hearing?</th>
<th>( X ) Yes</th>
<th>( ) NO</th>
</tr>
</thead>
</table>

**REQUESTED DATE**

1. The Council must hold a hearing if they want to take action that differs from the Planning Commission's recommendation (WCC 2.160.100(2)).

**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:**

<table>
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<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
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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).
ORDINANCE NO. ______

ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20 ZONING, TO CORRECT ERRORS AND PROVIDE CLARIFICATION

WHEREAS, the Whatcom County Code Title 20 (Zoning) contains passages that can cause confusion due to unclear wording or outdated references; and

WHEREAS, a citizens advisory committee has assisted Whatcom County Planning and Development Services staff in identifying and these passages and developing code amendments to correct them; and

WHEREAS, legal notice requirements have been met; and

WHEREAS, the County Council finds the Zoning Code amendments in the interest of the public health, safety, and welfare, based on the following findings and conclusions:

FINDINGS OF FACT:

1. The County Executive appointed a Title 20 Review Advisory Committee to work with Planning and Development Services staff to correct errors and eliminate inconsistencies in the County’s Zoning Code.

2. The committee and staff met eight times in early 2013 and forwarded a memorandum to the Executive in July, 2013 outlining its recommendations, including the proposed amendments.

3. A State Environmental Policy Act (SEPA) determination of non-significance (DNS) was distributed on August 26, 2013.

4. The proposed amendment was posted on the County website August 22, 2013.

5. 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 August 22, 2013.

6. Notice of the subject amendment was submitted to the Washington State Department of Commerce on August 1, 2013.

7. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on August 30, 2013.
8. Notice of the Planning Commission hearing for the subject amendment was posted on the County’s website on August 22, 2013.

9. The Planning Commission held a public hearing on the subject amendment on September 12, 2013.

10. 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 and implements the Whatcom County Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:

Section 1. The Whatcom County Official Zoning Code 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, Executive

( ) Approved ( ) Denied

Date:
EXHIBIT A

Whatcom County Code Title 20 Zoning Amendments

Chapter 20.13

WIRELESS COMMUNICATIONS FACILITIES

20.13.110 Special exceptions.
When adherence to all development standards of this chapter would result in a physical barrier which would block signal reception or transmission or prevent effective communication in all permissible locations, a special exception may be permitted provided criteria outlined below are met. Exceptions do not apply to variations from the current code as adopted and amended per Whatcom County Code, Title 15, Building & Construction. Uniform Building Code. A variance pursuant to Chapter 20.84 WCC is required for variations from applicable zoning regulations not described in this section.

Chapter 20.20

URBAN RESIDENTIAL (UR) DISTRICT

.135 Reserved. One private, noncommercial, recreational vehicle or park model trailer and one accessory guest RV per lot within pre-existing recreational subdivisions of the Foothills Subarea, as listed in WCC 20.97.337; provided, that the following minimum requirements and standards are met and/or followed:

(1) All recreational vehicles that remain on the site for more than 14 consecutive days shall be connected to a permitted on-site sewage system or public sewer.

(2) Maximum length of occupation of a recreational vehicle shall not exceed 120 days per calendar year; provided, that no accessory guest recreational vehicle shall stay on the lot for more than 14 consecutive days nor more than 30 days total per calendar year.
(3) All recreational vehicles shall be screened from neighboring properties not using RVs and from public roads. Such screening may consist of landscaped buffer areas, suitable native vegetation or a fence.

(4) Lots shall not be leased or rented out on a daily or overnight basis for recreational use.

(5) Accessory structures shall be limited to storage, shop, garage, carport and/or similar personal use only and shall not exceed a total of 200 square feet in floor area per lot; provided, that the 200-square foot limitation shall not apply to that portion of a carport covering the RV.

(6) The locations of parked RVs on vacant lots shall observe normal building setback standards for a single-family residence.

(7) All recreational vehicles shall be supported by their own wheels or camper jacks, and not be fastened to accessory structures.

*****

Chapter 20.22

URBAN RESIDENTIAL – MEDIUM DENSITY (URM) DISTRICT

*****

20.22.656 Driveways.
(1) In the Bellingham Urban Growth Area, the city of Bellingham’s design and development standards and guidelines shall apply (see WCC 20.22.665).

(2) Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways/Transportation.

*****

Chapter 20.32

RESIDENTIAL RURAL (RR) DISTRICT

.135 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087089:

(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 1,250 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.

(2) The parcel size shall not be less than one acre; provided, that a smaller parcel may be approved by the hearing examiner by conditional use.
(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.

(4) One nonilluminated sign, not to exceed eight square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

20.32.305 Lot clustering. (Adopted by reference in WCCP Chapter 2.)

(1) The purpose of lot clustering is to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost and increase energy efficiency and reserve areas of land which are suitable for agriculture, forestry, or open space.

(2) The clustering option is also intended to help preserve open space and the character of areas and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas.

20.32.310 Design standards. (Adopted by reference in WCCP Chapter 2.)

The creation of new building lots, pursuant to this section, shall be governed by the following recommended design standards:

(1) Clustered building lots may be only created through the subdivision or short subdivision process.

(2) Building lots shall be designed and located to the fullest extent possible to be compatible with valuable or unique natural features, as well as physical constraints of the site.

(3) The majority of building sites shall be arranged in a cluster or concentrated pattern to be compatible with physical site features and have no more than two common encroachments on existing county roads. The arrangement of clustered building lots is intended to discourage development forms commonly known as linear, straight-line or highway strip patterns.

(4) Common access to clustered building lots shall be provided by short length roads or loop roads. In urban growth areas and urban growth area reserves, interior streets shall be designed to allow access to the “reserve tract” for the purpose of future approved development in urban growth areas and urban growth area reserves.

20.32.320 Reserve tract. (Adopted by reference in WCCP Chapter 2.)

For the purposes of this section, "reserve tract" is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, or
open space purposes. All “reserve tracts” created through the subdivision process shall be subject to the following provisions:

(1) After a site is initially subdivided pursuant to this chapter, the “reserve tract” may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.

(2) The “reserve tract” may be considered as a building lot; provided, that such lot is included in the overall density calculation of the original parcel of record and that development within a “reserve area” easement is consistent with the uses permitted in reserve areas in this chapter.

(3) The “reserve tract” may be further subdivided only through the long subdivision process and only under the following circumstances:

(a) The county finds that in developing adjacent tracts it would help to further the objectives listed in WCC 20.32.305(2) by dividing the reserve tract and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in reserve area; and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract.

(b) When the Comprehensive Plan and zoning have been updated as part of the normal process (other than a revision initiated by the private sector or done for a specific area) and the public process has been gone through, subject to findings that there is no adverse impact to critical areas and development is in compliance with rural land use Comprehensive Plan policies, and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract.

(4) The purpose of the reserve tract as stated in subsections (1), (2) and (3) of this section shall be communicated in writing on the face of the plat or short plat. The number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or “reserve tracts.” Any remaining density beyond the number of lots created on the plat, may be assigned to either the lots or the reserve tract, but future subdivision shall not reduce the size of the reserve area below the minimum percentage of the original parent parcel required in WCC 20.32.253.

(5) The above requirements in subsections (2) to (4) of this section shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction 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.
20.32.450 Lot coverage. (Adopted by reference in WCCP Chapter 2.)
No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet. Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

20.32.656 Drainage. (Adopted by reference in WCCP Chapter 2.)
All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.
No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.34
RURAL RESIDENTIAL-ISLAND (RR-I) DISTRICT

20.34.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

.134 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087089:
(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 1,250 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.
(2) The parcel size shall not be less than one acre; provided, that a smaller parcel may be approved by the hearing examiner by conditional use.
(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.
(4) One nonilluminated sign, not to exceed eight square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.
(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

20.34.305 Lot clustering. (Adopted by reference in WCCP Chapter 2.)

(1) The purpose of lot clustering is to preserve the rural character of Lummi Island and to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost and increase energy efficiency and preserve areas of land which are suitable for agriculture, forestry, or open space in accordance with the adopted zoning density requirements, as applied to the entire subdivision or short subdivision.

(2) The clustering option is also intended to help preserve open space and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas.

20.34.310 Design standards. (Adopted by reference in WCCP Chapter 2.)

The creation of new building lots, pursuant to this section, shall be governed by the following recommended design standards:

(1) Clustered building lots may be only created through the subdivision or short subdivision process.

(2) Building lots shall be designed and located to the fullest extent possible to be compatible with valuable or unique natural features, as well as physical constraints of the site.

(3) The majority of building sites shall be arranged in a cluster or concentrated pattern to be compatible with physical site features, and have no more than two common encroachments on existing county roads. The arrangement of clustered building lots is intended to discourage development forms commonly known as linear, straight-line or highway strip patterns.

(4) Common access to clustered building lots shall be provided by short length roads or loop roads. In addition, interior streets shall be designed to allow access to the “reserve tract.”

20.34.320 Reserve tract. (Adopted by reference in WCCP Chapter 2.)

For the purposes of this section, “reserve tract” is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, or open space purposes which does not exceed adopted zoning density requirements, as applied to the entire subdivision or short subdivision. All “reserve tracts” created through the subdivision process shall be subject to the following provisions:

(1) After a site is initially subdivided pursuant to this section, the “reserve tract” may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.
(2) The “reserve tract” may be considered as a building lot; provided, that such lot is included in the overall density calculation of the original parcel of record and that development within a “reserve area” easement is consistent with the uses permitted in reserve areas in this chapter.

(3) The reserve tract is created and is unbuildable beyond any building density remaining at the time of land division. This is intended to ensure that the reserve tract open space will remain in the same location adjacent to the clustered lot it serves.

(4) The purpose of the reserve tract as stated in subsections (1), (2), and (3) of this section shall be communicated in writing on the face of the plat or short plat; also, the number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or “reserve tracts.” Any remaining density beyond the number of lots created on the plat may be assigned to either the lots or the reserve tract, but future subdivision shall not reduce the size of the reserve area below the minimum percentage of the original parent parcel required in WCC 20.34.252.

(5) That the above stated requirements in subsections (2), (3), and (4) of this section shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction 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.

20.34.659 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

Chapter 20.35

ELIZA ISLAND (EI) DISTRICT

20.35.130 Administrative approval uses.
.132 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087089:

(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 1,250 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.

(2) The parcel size shall not be less than one acre; provided, that a smaller parcel may be approved by the hearing examiner by conditional use.

(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.

(4) One nonilluminated sign, not to exceed four square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.

Chapter 20.36

RURAL (R) DISTRICT

.150 Conditional uses.

Items indicated by an "*" are not allowed outside rural communities and short-term planning areas unless the applicant can demonstrate that there is a need to locate outside those areas in order to comply with legal requirements or standards; or that the proposed location is the most efficient place for the proposed use with respect to providing needed services to the public.

.161 Cottage industries employing no more than four people on-site, other than family members residing on the premises, conducted in a structure(s) other than the dwelling unit; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087089:

(1) The hearing examiner, at his discretion, may place limitations on the square footage used in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or uses related to the cottage industry shall not exceed one acre or 25 percent of the site, whichever is less.

(2) In the event materials will be stored outdoors, the hearing examiner shall require adequate landscaping, screening or other devices in order that the material will not be visible by surrounding uses or roads.

(3) One nonilluminated freestanding sign, visible from the road, and not exceeding six feet in height, may be permitted. One additional nonilluminated sign may be
attached to the building for a maximum total signage of 16 square feet. No portion of any sign shall extend above the lowest portion of the roof.

(4) In the R-10A zone, where the cottage industry involves production or processing of forestry or agricultural related products on parcels larger than 10 acres, the maximum number of employees outside the family may be increased at the rate of one additional employee for each additional 10 acres to a maximum of 10 employees outside the family. In the event that the property is reduced in size below the acreage used to qualify for additional employees under this section, the number of employees shall be proportionately reduced.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

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.170 Bed and breakfast lodgings.

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20.36.305 Lot clustering. (Adopted by reference in WCCP Chapter 2.)

(1) The purpose of lot clustering is to provide an alternative method of creating economical building lots with spatially efficient sizes. Clustering is intended to reduce development cost and increase energy efficiency and reserve areas of land which are suitable for agriculture, forestry, or open space.

(2) The clustering option is also intended to help preserve open space and the character of areas and reduce total impervious surface area thereby reducing runoff while assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, preservation of wetlands, preservation of aesthetic values including view corridors, and preservation of potential trail and recreation areas.

(3) Lot clustering is required for residential developments on parcels 10 acres or greater when the property is located within an urban growth area reserve.

20.36.310 Design standards. (Adopted by reference in WCCP Chapter 2.)

The creation of new building lots, pursuant to this section, shall be governed by the following recommended design standards:

(1) Clustered building lots may be only created through the subdivision or short subdivision process.

(2) Building lots shall be designed and located to the fullest extent possible to be compatible with valuable or unique natural features, as well as physical constraints of the site.

(3) The majority of building sites shall be arranged in a cluster or concentrated pattern to be compatible with physical site features and have no more than two common encroachments on existing county roads. The arrangement of clustered building lots is intended to discourage development forms commonly known as linear, straight-line or highway strip patterns.
(4) Common access to clustered building lots shall be provided by short length roads or loop roads. In addition, interior streets shall be designed to allow access to the “reserve tract” for the purpose of future approved development in urban growth areas and urban growth area reserves.

(5) Where the boundaries of a proposed cluster subdivision includes land in more than one rural zone designation (R2-A, R-5A and R-10A) the following shall apply:
   (a) The total number of units permitted shall be computed by separately calculating the number of lots allowed in each zone district based on the amount of land area within the district. The number of lots allowed in each district shall be totaled to arrive at the total number of lots.
   (b) Lot clusters may be distributed or arranged on property(s) covered by the subdivision such that density from an R-5A or R-10A portion of a subdivision may be transferred to an adjacent portion of the subdivision with a different rural zoning designation (R-2A, R-5A or R-10A); provided, the total number of lots for the entire subdivision does not exceed the number calculated in subsection (5)(a) of this section; and provided further, that the lot design is consistent with subsections (1) through (4) of this section. Density from R-2A portions of the subdivision may not be transferred to R-5A or R-10A portions of the subdivision.

(6) In order to preserve rural character, no more than 16 residential lots shall be permitted in one cluster and there shall be at least 500 feet of separation between any new clusters, except when the cluster subdivision is located on a parcel or contiguous parcels in the same ownership, greater than 20 acres.

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20.36.320 Reserve tract. (Adopted by reference in W CCP Chapter 2.)

For the purposes of this section, “reserve tract” is defined as that portion of a proposed subdivision or short subdivision which is intended for agricultural, forestry, or open space purposes. All “reserve tracts” created through the subdivision process shall be subject to the following provisions:

(1) After a site is initially subdivided pursuant to this section, the “reserve tract” may be retained by the subdivider, conveyed to residents of the subdivision or conveyed to a third party.

(2) The “reserve tract” may be considered as a building lot; provided, that such lot is included in the overall density calculation of the original parcel of record and that development within a “reserve area” easement is consistent with the uses permitted in reserve areas in this chapter.

(3) The “reserve tract” may be further subdivided only through the long subdivision process and only under one of the following circumstances:

(a) The county finds that in developing adjacent tracts it would help to further the objectives listed in WCC 20.36.305(2) by dividing the reserve tract and increasing the area of reserve proportionately on the adjacent land being subdivided so that there is no net reduction in reserve area; and when the reserve tract is owned by
the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract; or

(b) When the Comprehensive Plan and zoning have been updated as part of the normal process (other than a revision initiated by the private sector or done for a specific area) and the public process has been gone through, subject to findings that there is no adverse impact to critical areas and development is in compliance with rural land use Comprehensive Plan policies, and when the reserve tract is owned by the original developer or a third party, no property owner within the original subdivision will be significantly adversely affected or suffer a substantial decrease of property value as a result of dividing the reserve tract.

(4) The purpose of the reserve tract as stated in subsections (1), (2) and (3) of this section shall be communicated in writing on the face of the plat or short plat; also, the number of developable building sites remaining (if any) with the original parcel of record, based on the assigned density, shall also be prominently displayed on the plat or short plat. Whatcom County shall make every effort to assist all agents in communicating clearly such information to all purchasers and prospective purchasers of building lots or “reserve tracts.” Any remaining density beyond the number of lots created on the plat may be assigned to either the lots or the reserve tract, but future subdivision shall not reduce the size of the reserve area below the minimum percentage of the original parent parcel required in WCC 20.36.253.

(5) The requirements of subsections (2) to (4) of this section shall be recorded as a deed restriction at the time of filing of the final plat or short plat, and shall constitute an agreement between Whatcom County and the owner of record. Said deed restriction 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.


20.36.450 Lot coverage. (Adopted by reference in WCCP Chapter 2.)
No structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total area, not to exceed 25,000 square feet. Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.


20.36.656 Drainage. (Adopted by reference in WCCP Chapter 2.)
All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.
No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.
Chapter 20.37

POINT ROBERTS TRANSITIONAL ZONE (TZ) DISTRICT

20.37.655 Drainage. (Adopted by reference in WCCP Chapter 2.)
All development activity within Whatcom County shall be subject to the storm-water management provisions of the Whatcom County Development Standards unless specifically exempted. No project permit shall be issued prior to meeting the stormwater requirements of this title and Chapter 2 of the Whatcom County Development Standards.

Chapter 20.40

AGRICULTURE (AG) DISTRICT

20.40.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

.135 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087089:
(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.
(2) The parcel size shall not be less than one acre.
(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.
(4) One nonilluminated sign, not to exceed 16 square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.
(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.
.155 A cottage industry employing no more than four persons on-site, other than family members residing on the premises, and which may be conducted in structures other than the dwelling unit; provided, that in addition to the criteria set forth in WCC 20.84.220 and 20.97.087089, the hearing examiner shall find that the cottage industry satisfies the criteria of WCC 20.36.161(1) through (5).

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Chapter 20.42

RURAL FORESTRY (RF) DISTRICT

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20.42.130 Administrative approval uses.
The following uses are permitted subject to administrative approval pursuant to WCC 20.84.235.

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.135 Cottage industries employing no more than two people on-site, other than family members residing on the premises; provided, that in addition to the criteria found in WCC 20.84.220 and 20.97.087089:

(1) The zoning administrator, at his or her discretion, may place limitations on the square footage in an existing or new structure used for a cottage industry and construction of new buildings to house said activity shall not, in any case, exceed 2,500 square feet of total floor area. The total land area used for buildings and outside storage or other uses related to the cottage industry shall not exceed 10,000 square feet or 25 percent of the site, whichever is less.

(2) The parcel size shall not be less than one acre.

(3) In the event materials will be stored outdoors, the zoning administrator shall require adequate landscaping, screening, or other devices in order that the material will not be visible by surrounding uses or roads.

(4) One nonilluminated sign, not to exceed 16 square feet in size, mounted on the property, is permitted. A larger sign up to 32 square feet may be approved by the hearing examiner as a conditional use.

(5) Seasonal employees working less than 21 days per year will not be counted as employees if they are engaged in work directly related to agriculture or forestry.

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.164 Cottage industries as defined by WCC 20.97.087089, excluding those allowed in WCC 20.42.135, and which employ not more than four people outside the family conducted in structure(s) other than the dwelling unit. Such activities will comply with all other provisions of WCC 20.36.161(1) through (5).

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Chapter 20.44

RECREATION AND OPEN SPACE (ROS) DISTRICT

20.44.652 Drainage. (Adopted by reference in W CCP Chapter 2.)

All development activity within Whatcom County shall be subject to the storm-water management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.44.653 Driveways.

Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways/Transportation, as applicable.

Chapter 20.59

RURAL GENERAL COMMERCIAL (RGC) DISTRICT

20.59.100 Accessory uses.

.106 One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed the exempt criteria stated in the current code as adopted and amended per Whatcom County Code, Title 15, Building & Construction, adopted edition of the International Building Code, and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.

20.59.600 Buffer area. (Adopted by reference in W CCP Chapter 2.)

.601 When a parcel situated within this district adjoins an Agriculture, Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks from property lines adjoining these districts shall be increased to 25 feet. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.
20.59.704 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.59.705 Driveways.

Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of HighwaysTransportation, as applicable.

20.60.550 Buffer area. (Adopted by reference in WCCP Chapter 2.)

.551 When parcels situated within this district adjoin an Agriculture, Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named district. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 When parcels situated within this district are between an interstate highway and a Residential Rural or Rural District, the setback on sides adjoining the Residential Rural or Rural Districts and paralleling the interstate shall be increased to 100 feet. This buffer shall not be altered from existing dense natural vegetation or, where vegetation is lacking, shall be landscaped so as to provide a dense vegetative screen.

20.60.655 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.60.656 Driveways.

Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of HighwaysTransportation, as applicable.
Chapter 20.61

SMALL TOWN COMMERCIAL (STC) DISTRICT

20.61.600 Buffer area. (Adopted by reference in WCCP Chapter 2.)

.601 Where parcels situated within this district adjoin an Agriculture, Urban Residential, Urban Residential Medium Density, Residential Rural or Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named districts. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.

20.61.704 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted. No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.61.705 Driveways.

Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of HighwaysTransportation, as applicable.

Chapter 20.62

GENERAL COMMERCIAL (GC) DISTRICT

20.62.654 Driveways.

Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of HighwaysTransportation, as applicable.

Chapter 20.63

TOURIST COMMERCIAL (TC) DISTRICT
20.63.550 Buffer area. (Adopted by reference in WCCP Chapter 2.)

.551 When parcels situated within this district adjoin an Agriculture, Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named districts. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.

20.63.654 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.63.655 Driveways.

Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways Transportation.

Chapter 20.64

RESORT COMMERCIAL (RC) DISTRICT

20.64.550 Buffer area. (Adopted by reference in WCCP Chapter 2.)

.551 Except for single-family residences, when a parcel situated within this district adjoins an Urban Residential, Urban Residential Medium Density, Residential Rural or Rural District, side and rear yard setbacks shall be increased to 25 feet along the property line(s) adjacent to the named district. Said area shall be landscaped consistent with the requirements of WCC 20.80.345.

20.64.655 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.
No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.64.656 Driveways.
Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of HighwaysTransportation, as applicable.

Chapter 20.65

GATEWAY INDUSTRIAL (GI) DISTRICT

20.65.400 Height limitations.
Maximum building height shall not exceed 35 feet; except, that an additional foot in height is allowed for each one-foot increase in setback in the yard adjoining the interstate highway up to 45 feet in the West Bakerview/I-5 Interchange area of the Urban Fringe Subarea and up to 75 feet in the Birch Bay-Lynden Road area of the Blaine-Birch Bay Subarea. Height of structures, where applicable, shall also conform to the general requirements of WCC 20.80.675.

20.65.655 Driveways.
Consistent with WCC 20.80.640, driveway plans shall be reviewed and approved by the county engineer or, where applicable, the State Department of HighwaysTransportation.

Chapter 20.66

LIGHT IMPACT INDUSTRIAL (LII) DISTRICT

20.66.654 Driveways.
Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of HighwaysTransportation.
Chapter 20.67

GENERAL MANUFACTURING (GM) DISTRICT

20.67.100 Accessory uses.

.110 One storage building per lot; provided, that the storage building shall not exceed the exempt criteria stated in the current code as adopted and amended per Whatcom County Code, Title 15, Building & Construction, adopted edition of the International Building Code, and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.

20.67.550 Buffer area. (Adopted by reference in WCCP Chapter 2.)

.551 When a parcel situated within this district adjoins an Agriculture, Urban Residential, Urban Residential Medium Density, Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks shall be increased to 25 feet. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 If any part of the buffer area is separated from or sold to any contiguous or adjacent owner, lessee or user, the parcel so separated or sold shall be used only as a buffer area in accordance with the above requirements.

20.67.653 Drainage. (Adopted by reference in WCCP Chapter 2.)

All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.

No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.67.654 Driveways.

Pursuant to WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways, as applicable.
Chapter 20.68
HEAVY IMPACT INDUSTRIAL (HII) DISTRICT

20.68.654 Driveways.
Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways Transportation, as applicable.

Chapter 20.69
RURAL INDUSTRIAL AND MANUFACTURING (RIM) DISTRICT

20.69.100 Accessory uses.

.110 One one-story detached accessory storage building per lot; provided, that the floor area shall not exceed the exempt criteria stated in the current code as adopted and amended per Whatcom County Code, Title 15, Building & Construction, adopted edition of the International Building Code, and shall only be used for personal storage and not for habitation or business; and provided further, that the storage building shall contain no indoor plumbing but may be served with electrical power for lighting.

20.69.550 Buffer area. (Adopted by reference in WCCP Chapter 2.)

.551 When a parcel situated within this district adjoins an Agriculture, Rural or Residential Rural District, or county or state roads designated as or proposed for improvements to principal arterial status, setbacks of adjoining area shall be increased to 25 feet. Unless adjoining an Agriculture Zoning District, said area shall be landscaped consistent with the requirements of WCC 20.80.345.

.552 If any part of said buffer area is separated from or sold to any contiguous or adjacent owner, lessee or user, the parcel so separated or sold shall be used only as a buffer area in accordance with the above requirements.
20.69.655 Drainage. (Adopted by reference in WCCP Chapter 2.)
All development activity within Whatcom County shall be subject to the stormwater management provisions of the Whatcom County Development Standards unless specifically exempted.
No project permit shall be issued prior to meeting submittal requirements relating to stormwater management in the appropriate chapters of the Whatcom County Development Standards.

20.69.656 Driveways.
Pursuant to WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways.Transportation, as applicable.

Chapter 20.70
AIRPORT OPERATIONS (AO) DISTRICT

20.70.654 Driveways.
Consistent with WCC 20.80.640, driveway plans shall be reviewed by the county engineer or State Department of Highways.Transportation.

Chapter 20.71
WATER RESOURCE PROTECTION OVERLAY DISTRICT*

Sections:
20.71.010 Purpose.
20.71.020 Application.
20.71.021 Area and applicability.
20.71.050 Permitted uses.
20.71.100 Accessory uses.
20.71.150 Conditional uses.
20.71.200 Prohibited uses.
20.71.300 Open space and impervious surfaces.
20.71.350 Cluster subdivisions.
20.71.351 Cluster design standards.
20.71.352 Open space reserve area.
20.71.400 Building setback/buffer areas.
20.71.600 Development criteria.
20.71.601 Parking space dimensions.
20.71.602 Parking requirements.
20.71.603 Alternative surfacing methods.
20.71.604 Vehicular access.
20.71.700 Roads, curbs, gutters and sidewalks.

* This chapter is adopted by reference in WCCP Chapter 2. Prior legislation: Ord. 2008-035, which expired March 20, 2009, was formerly codified in this chapter.

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20.71.350 Cluster subdivisions. (Adopted by reference in WCCP Chapter 2.)

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.

20.71.351 Cluster design standards. (Adopted by reference in WCCP Chapter 2.)

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.
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.
20.71.352 Open space reserve area. (Adopted by reference in WCCP Chapter 2.)

(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 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.

(g) For cluster subdivisions approved after December 7, 1999, that portion of the reserve tract which is kept in pervious open space may be counted toward pervious surface area requirements for the building lots in the subdivision on a prorated basis.
Chapter 20.72
POINT ROBERTS SPECIAL DISTRICT

20.72.130 Administrative approval uses.
All administrative approval uses in the underlying zone districts are permitted except as expressly prohibited or made conditional, or further conditioned by this chapter. In addition, the following uses are permitted subject to administrative approval pursuant to WCC 20.84.235:

.135 One private, noncommercial, recreational vehicle or park model trailer and one accessory guest RV per lot; provided, that the following minimum requirements and standards are met and/or followed:
(1) All recreational vehicles that remain on the site for more than 14 consecutive days shall be connected to a permitted on-site sewage system or public sewer.
(2) Maximum length of stay of any recreational vehicle on a lot shall not exceed 120 days per calendar year; provided, that no accessory guest RV shall remain on the subject lot for more than 14 consecutive days nor more than 30 days total per calendar year.
(3) All recreational vehicles shall be screened from neighboring properties not using RVs and from public roads. Such screening may consist of landscaped buffer areas, native vegetation or a fence.
(4) Lots shall not be leased or rented out on a daily or overnight basis for recreational use.
(5) Accessory structures are limited to one personal storage building no larger than 120-200 square feet.
(6) The locations of parked RVs on vacant lots shall observe normal building setback standards for a single-family residence.
(7) All recreational vehicles shall be supported by their own wheels or camper jacks, and not be fastened to accessory structures. Placement of a recreational vehicle on a foundation or removal of the wheels of a recreational vehicle, except for temporary purposes for repair, is prohibited.

20.72.350 Building setbacks/buffer areas. (Adopted by reference in WCCP Chapter 2.)
(1) Building setbacks along Tyee Drive and Roosevelt Road are increased to 50 feet and 40 feet respectively. In existing treed areas along Tyee Drive and Roosevelt Road, a 50-foot/40-foot vegetative buffer comprised of existing trees shall be maintained for visual or aesthetic purposes except for necessary ingress and egress
points. In open areas a 50-foot/40-foot planted buffer shall be developed as part of the normal landscape requirements for site development.

(2) Within the Small Town Commercial Zone along Gulf Road, commercial, institutional and mixed use building setbacks shall be reduced to 10 feet. Buildings oriented towards the street edge shall be encouraged and the front of buildings shall be designated for landscaping and pedestrian traffic.

(3) The provisions of WCC 20.64.353 shall not apply to single-family residences in the Resort Commercial District at Point Roberts.

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20.72.651 Facility design. (Adopted by reference in WCCP Chapter 2.)

(1) All commercial and institutional use structures and appurtenant signs shall conform to the requirements of the Point Roberts Character Plan.

(2) All commercial and institutional structures shall screen roof-mounted mechanical equipment so as not to be visible by surrounding uses or roads.

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20.72.653 Tree canopy retention. (Adopted by reference in WCCP Chapter 2.)

In addition to compliance with all other requirements of this title and other titles of the Whatcom County Code, development activities shall be subject to the following provisions:

(1) In the RC, RGC, and STC Districts, existing tree canopy areas (as defined by the dripline of the tree(s)) may be used to meet all or part of the open space requirements of this title. If existing tree canopy areas do not fully satisfy the minimum open space requirements of the applicable zone district, the remainder of the required open space shall be subject to the landscaping requirements established in WCC 20.80.300.

(2) In the RR, TZ and R Districts:

(a) Residential Development.

(i) Lots less than one-half acre may remove 100 percent of the existing tree canopy on site; provided, that 30 percent of the pre-existing tree canopy shall be replanted.

(ii) Lots greater than, or equal to, one-half acre shall retain 30 percent of the existing tree canopy area on a lot. Trees may be removed within areas to be cleared for purposes of a building site, driveways, parking areas, and areas to be landscaped, but such areas shall not exceed 5,000 square feet or 70 percent, whichever is greater, of the total lot area.

(iii) On lots greater than one acre, no more than 50 percent of the existing tree canopy area shall be removed.

(b) Commercial, institutional and recreational development may use existing tree canopy areas to meet all or part of the landscaping requirements of this title.

(3) 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.
(4) A 200-meter protective buffer of existing trees and vegetation shall be maintained around the Heronry.
(5) Buffering which recognizes the need for safety and the unique features of Lily Point shall be required on the Point. No development shall take place in such areas.
(6) 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:
   (i) North arrow;
   (ii) Property boundaries;
   (iii) Existing structures;
   (iv) Site access;
   (v) Tree canopy areas to be removed;
   (vi) The outer dripline of tree canopy areas to be retained;
   (vii) Critical areas including, but not limited to, slopes, wetlands, and habitat conservation areas;
   (viii) Protection measures to be utilized for areas that will be undisturbed; and
   (ix) Areas to be replanted pursuant to subsection (9) of this section;
(b) A planting schedule that indicates the timeframe for replanting of trees as applicable; and
(c) Provisions for maintenance and monitoring.
(7) Prior to any land clearing activity or development activity, any tree canopy areas 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 of roots or trunks. Machinery, impervious surfaces, fill and storage of construction materials shall be kept outside of the dripline of tree canopy areas designated for retention.
(8) 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 cut through the root system.

(9) 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 the site;
(b) Be planted to re-establish tree clusters where they previously existed, or to enhance protected tree clusters;
(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.

(10) 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.

(11) 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 tree 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 replanted 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.

20.72.654 Site design/view corridors. (Adopted by reference in WCCP Chapter 2.)

All structures or developments other than a single-family home on an individual lot shall conform to the requirements of the adopted Point Roberts Character Plan. Scenic views and open space shall be considered in all developments and the site plan designed to ensure view access is maximized while maintaining reasonable use of the development site.

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Chapter 20.73

MINERAL RESOURCE LANDS SPECIAL DISTRICT (MRL)

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20.73.651 Road access.
For surface mining operations, access on any public right-of-way shall be paved in accordance with the county engineering division or State Department of Highways—Transportation Development Standards, as appropriate.

Chapter 20.78
TRANSPORTATION CONCURRENCY MANAGEMENT

20.78.010 Purpose.
The purpose of this chapter is to ensure that adequate transportation facilities are available or provided concurrent with development, in accordance with the Growth Management Act (RCW 36.70A.070) and consistent with WAC 365-195-510 and 365-195-835. No development permit shall be issued except in accordance with this chapter.

Chapter 20.80
SUPPLEMENTARY REQUIREMENTS

20.80.200 Setback requirements.* (Adopted by reference in WCCP Chapter 2.)

20.80.210 Minimum setbacks.
(1) All structures, including accessory structures, shall be placed on their lots in compliance with the requirements of the setback table (subsection (5)(b) of this section), except as may otherwise be provided in this title.
(2) Waterfront Lots. Waterfront lots shall comply with the building setback requirements set forth in the Whatcom County Shoreline Management Program. (See WCC 20.80.220(2).)
(3) Vision Clearance. Notwithstanding any other setback requirements of this title, and unless specifically provided otherwise, a clear vision area shall be maintained on the corners of all property at the intersection of two streets, a street and an alley, or a street and a railroad.
   (a) A clear vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in subsection (3)(c) of this section (where the lot has rounded corners, the distance shall be measured from the intersection of those lot lines extended), and the third side of which is a line across the corner of the lot joining the nonintersection ends of the other two sides.
   (b) A clear vision area shall contain no planting, fence, wall, obstruction, or temporary or permanent obstruction exceeding two and one-half feet in height,
measured from the top of the curb or, where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area; provided all branches and foliage are removed to a height of 10 feet above the grade.

(c) The following measurements shall establish clear vision areas:
   (i) In a residential zone, the minimum distance shall be 30 feet, or at intersections including an alley, 10 feet;
   (ii) In all other zones, the minimum distance shall be 15 feet, or at intersections including an alley, 10 feet, except when the angle of intersection between a street other than an alley is less than 30 degrees, the distance shall be 25 feet;
   (iii) Structures including buildings may be constructed within the clear vision area; provided, that any portion of the structure within the clear vision area is more than eight feet above the top of the curb or street center line grade and is supported by not more than two columns each of which is no more than eight inches in diameter.

(4) Properties which are generally located on the Guide Meridian between Horton and Kellogg roads, and specifically identified in the Guide Meridian Improvement Plan, shall be subject to the provisions of said plan. The provisions of said plan shall supersede this chapter where there is inconsistency.

(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.

### Commercial Setbacks

<table>
<thead>
<tr>
<th>General Commercial (GC)</th>
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<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
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1. Setbacks for those parcels situated adjacent to Urban Residential, Rural Cluster Development and Rural Zone Districts shall be administered pursuant to WCC 20.62.550 (Buffer area).

**Rural General Commercial (RGC)**

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<tr>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collector s</th>
<th>Minor Collector s</th>
<th>Local Access Streets</th>
<th>Neighborh ood Collector</th>
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<th>Side Yard</th>
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1. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Rural Cluster Development, and Rural Zone Districts shall be administered pursuant to WCC 20.59.600 (Buffer area).
2. Side and rear yard setbacks shall be 10 feet from vacant, adjacent, commercially zoned properties.

**Tourist Commercial (TC)**

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<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collector s</th>
<th>Minor Collector s</th>
<th>Local Access Streets</th>
<th>Neighborh ood Collector</th>
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<th>Side Yard</th>
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</table>

**Water Resource Protection Overlay**

| 30' | 30' | 20' | 20' | 20' | 20' | 0' | 5' |

1. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Urban Residential Medium Density, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.63.550 (Buffer area).
2. Setback requirements for recreational vehicle parks shall be 30 feet for side and rear yards.
3. Front yard setback requirements for service islands of service stations shall be 25 feet to the center line of the driveway of the closest service island.

### Small Town Commercial (STC)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collectors</th>
<th>Minor Collectors</th>
<th>Local Access Streets</th>
<th>Neighborhood Collector</th>
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</table>

1. Commercial uses shall be allowed to reduce front yard setback to 10 feet and the side yard setback to zero feet where the site and landscape plans promote pedestrian access to the building.
2. Side and rear yard setbacks shall be 10 feet from vacant, adjacent, commercially zoned properties.
3. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Urban Residential Medium Density, Residential Rural, and Rural Zone Districts shall be administered pursuant to WCC 20.61.600 (Buffer area).

### Resort Commercial (RC)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collectors</th>
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<td>5’</td>
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1. Setbacks for those parcels situated adjacent to Urban Residential, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.64.550 (Buffer area).
2. Setback requirements for multifamily housing, including all condominiums except time share condominiums and mobile home parks, shall be 20 feet for side and rear yards.
3. Setback requirements for recreational vehicle parks, and resort-oriented hotels and motels including time share condominiums, shall be 45 feet for front yard and 20 feet for side and rear yards.
4. Setback requirements for nonresort-oriented hotels and motels and nonhabitation commercial development shall be zero feet for side yards and 10 feet for rear yards.
5. 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.

### Neighborhood Commercial (NC)
### Road Type

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<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collectors</th>
<th>Minor Collectors</th>
<th>Local Access Streets</th>
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<td>0'</td>
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#### Water Resource Protection Overlay

| 30' | 30' | 20' | 20' | 20' | 20' | 0' | 10' |

1. Neighborhood Commercial District. Setbacks for those parcels situated adjacent to Agriculture, Urban Residential, Residential Rural and Rural Zone Districts shall be administered pursuant to WCC 20.60.550 (Buffer area).

1. When located adjacent to I-5 these setbacks may be reduced to 25' subject to the screening requirements under WCC 20.80.300.

2. Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

### Industrial Setbacks

#### Heavy Impact Industrial (HII)

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<tr>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
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1. All setbacks shall be increased by one foot for each foot of building height, excluding tanks and similar structures, which exceeds 50 feet.

2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like, nor to structures relating to shipment on railroad rights-of-way; provided, that no traffic hazards are created. For nonindustrial buildings, the zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that all of the following provisions are met:

   (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;

   (ii) A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;
(iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

(iv) Adjoining properties will be shielded from light sources;

(v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;

(vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and

(vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.68.550 (Buffer area) and Policy 1.05 of the Heavy Impact Industrial designation of the Cherry Point–Ferndale Subarea Plan.

4. The setback requirements of the Heavy Industrial District shall apply to the storing and handling of hazardous materials; provided, that if federal and/or state regulations require different setbacks, the greater setback (county, federal or state) shall be used.

5. The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under section (4) of the Heavy Impact Industrial Zone’s setback requirements.

### Light Impact Industrial (LII)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Commercial, Industrial, I-5, State Hwy's, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collectors</th>
<th>Minor Collectors</th>
<th>Local Access Streets</th>
<th>Neighborhood Collector</th>
<th>Minor Access Streets</th>
<th>Side Yard</th>
<th>Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>30'</td>
<td>30'</td>
<td>30'</td>
<td>30'</td>
<td>20'</td>
<td>10'</td>
<td>10'</td>
</tr>
</tbody>
</table>

1. All setbacks shall be increased by one foot of building height which exceeds 35 feet.

2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like. In addition, the zoning administrator may reduce side and rear yard setbacks for other structures as provided by section (4) of the Light Impact Industrial Zone’s setback requirements.

3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.66.550 (Buffer area).

4. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district, provided, that the administrator finds that all of the following provisions are met:
(i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;

(ii) A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;

(iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

(iv) Adjoining properties will be shielded from light sources;

(v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;

(vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and

(vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

<table>
<thead>
<tr>
<th>General Manufacturing (GM)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Road Type</strong></td>
</tr>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
</tr>
<tr>
<td>30'</td>
</tr>
</tbody>
</table>

1. All setbacks shall be increased by one foot for each foot of building height which exceeds 35 feet.

2. The building setbacks of WCC 20.80.210 shall not apply to utility or security structures such as poles, meters, fences, guard structures and the like.

3. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.66.550 (Buffer area).

4. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:

   (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;

   (ii) A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;
(iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

(iv) Adjoining properties will be shielded from light sources;

(v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;

(vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and

(vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3). Vision Clearance.

5. The zoning administrator may reduce setbacks for nonindustrial buildings to those of Light Impact Industrial if the reduced setbacks would not interfere with existing sewer, water and other easements. A greater reduction in setback requires approval under section (4) of the General Manufacturing Zone’s setback requirements.

### Gateway Industrial (GI)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</strong></td>
<td><strong>Collector Arterials or Major Collector</strong></td>
</tr>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>25'</td>
</tr>
</tbody>
</table>

1. Maximum building height shall not exceed 35 feet; except, that an additional foot in height is allowed for each one-foot increase in setback in the yard adjoining the interstate highway up to 45 feet in the West Bakerview/I-5 Interchange area of the Urban Fringe Subarea and up to 75 feet in the Birch Bay-Lynden Road area of the Blaine-Birch Bay Subarea. Height of structures, where applicable, shall also conform to the general requirements of WCC 20.80.675.

### Airport Operations (AO)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</strong></td>
<td><strong>Collector Arterials or Major Collector</strong></td>
</tr>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>30'</td>
</tr>
</tbody>
</table>
1. Setbacks for parcels adjoining a nonindustrial district shall be administered pursuant to WCC 20.70.550 (Buffer area).

2. The zoning administrator may reduce or eliminate side and rear yard setbacks from side and rear property lines that are adjoining an industrial district; provided, that the administrator finds that all of the following provisions are met:

   (i) Screening will be provided to protect adjacent uses from unsightliness or visual distraction;

   (ii) A site plan has been submitted that shows that all structures and improvements, including roof overhangs, will not cross property boundaries, and a stormwater management plan has been provided that shows that runoff will be diverted to on-site drainage facilities;

   (iii) A reduction in setbacks will not reduce solar access on adjacent properties or if a setback reduction will result in reduced solar access, all parties having an ownership interest in the property adjacent to the side or rear yards to be reduced stipulate in writing, on forms provided by the zoning administrator, to the reductions. The zoning administrator may require a title report to establish the ownership interests in the adjacent property;

   (iv) Adjoining properties will be shielded from light sources;

   (v) The use and storage of toxic or hazardous materials or processes will not be located within what would otherwise be the setback area unless adequate facilities to contain accidental spills on site consistent with state regulations are provided;

   (vi) The reduced setbacks will not interfere with existing sewer, water and other easements; and

   (vii) Reduced setbacks will not result in the creation of a traffic hazard nor will the reduced setback create a circumstance that does not comply with WCC 20.80.210(3), Vision Clearance.

<table>
<thead>
<tr>
<th>Rural Industrial – Manufacturing (RIM)</th>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collector</td>
<td>Minor Collector</td>
</tr>
<tr>
<td>30'</td>
<td>30'</td>
<td>30'</td>
</tr>
</tbody>
</table>

1. Setbacks for parcels adjoining a nonindustrial district(s) shall be administered pursuant to WCC 20.67.550 (Buffer area).

<table>
<thead>
<tr>
<th>Resource Lands Setbacks</th>
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</thead>
<tbody>
<tr>
<td>Agricultural (AG)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
</table>

36
<table>
<thead>
<tr>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collectors</th>
<th>Minor Collectors</th>
<th>Local Access Streets</th>
<th>Neighborhood Collector</th>
<th>Minor Access Streets</th>
<th>Side Yard</th>
<th>Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td>50'</td>
<td>50'</td>
<td>50'</td>
<td>50'</td>
<td>50'</td>
<td>50'</td>
<td>20'</td>
<td>20'</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.

   Side yards: minimum side yard setbacks shall be five 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.

**Commercial Forestry (CF)**

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collectors</td>
</tr>
<tr>
<td>45'</td>
<td>35'</td>
</tr>
</tbody>
</table>

**Water Resource Protection Overlay**
1. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

**Rural Forestry (RF)**

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Side Yard Rear Yard</td>
</tr>
<tr>
<td>Collector Arterials or Major Collectors</td>
<td>20' 20'</td>
</tr>
<tr>
<td>Minor Collectors</td>
<td>20' 20'</td>
</tr>
<tr>
<td>Local Access Streets</td>
<td>100' 100'</td>
</tr>
<tr>
<td>Neighborhood Collector</td>
<td>45' 35'</td>
</tr>
<tr>
<td>Minor Access Streets</td>
<td>25' 25'</td>
</tr>
</tbody>
</table>

**Water Resource Protection Overlay**

| 30' | 30' | 20' | 20' | 20' | 20' | 20' | 20' |

1. Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry Zone situated adjacent to the Commercial Forestry Zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback of the Rural Forestry Zone. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman’s stations shall not be located within 100 feet of any other zone district.

2. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

3. When a permitted residence (WCC 20.42.056) adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.

4. Lummi Island scenic estates setbacks shall be administered under the Rural Residential Island setback standards.

5. 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.
## Rural Residential Setbacks

### Rural Residential (RR)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collector Arterials or Major Collectors</td>
<td>Minor Collector</td>
</tr>
<tr>
<td>Minor Collector</td>
<td>Local Access Streets</td>
</tr>
<tr>
<td>25'</td>
<td>25'</td>
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<tr>
<td>35'</td>
<td>20'</td>
</tr>
<tr>
<td>20'</td>
<td>5'</td>
</tr>
</tbody>
</table>

**Water Resource Protection Overlay**

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>30'</td>
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<td>20'</td>
<td>5'</td>
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<tr>
<td>20'</td>
<td>5'</td>
</tr>
</tbody>
</table>

1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.32.651 shall be subject to the standard setback in WCC 20.80.210.

2. 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.

1 Roof overhangs or other additional features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

2 Zero lot line side yard setbacks may be approved by the zoning administrator for single-family attached dwelling units along the common property line where the dwellings share a common wall.

### Rural Residential Island (RR-I)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Collector Arterials or Major Collectors</td>
<td>Minor Collector</td>
</tr>
<tr>
<td>Minor Collector</td>
<td>Local Access Streets</td>
</tr>
<tr>
<td>25'</td>
<td>25'</td>
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<tr>
<td>20'</td>
<td>20'</td>
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</tbody>
</table>

1. Residential Rural-Island District. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Forestry Zone Districts, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback in WCC 20.80.210.

### Point Roberts Transitional Zone (TZ)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
</table>

39
<table>
<thead>
<tr>
<th>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</th>
<th>Collector Arterials or Major Collector s</th>
<th>Minor Collectors</th>
<th>Local Access Streets</th>
<th>Neighborhood Collector</th>
<th>Minor Access Streets</th>
<th>Side Yard</th>
<th>Rear Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td>45'</td>
<td>35'</td>
<td>25'</td>
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<td>25'</td>
<td>20'</td>
<td>5'</td>
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</tbody>
</table>

No additional standards.

1. Roof overhangs or other additional features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

2. Zero lot line side yard setbacks may be approved by the zoning administrator for single-family attached dwelling units along the common property line where the dwellings share a common wall.

### Rural Zoning Setbacks

#### Rural (R)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collector s</td>
</tr>
<tr>
<td>45'</td>
<td>45'</td>
</tr>
</tbody>
</table>

**Water Resource Protection Overlay**

| 30' | 30' | 20' | 20' | 20' | 20' | 5' | 5' |

1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Commercial Forestry Zone District, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.36.651 shall be subject to the standard setback in WCC 20.80.210.

2. Lots created after 2001 through the cluster provisions, or lots created through the APO provisions which will be used for human habitation, shall be set back a minimum of 100 feet from the property line of any parcel or portion thereof which is designated or used for agricultural purposes. No structures shall be constructed within 30 feet of exterior, side and rear property lines, and no structure shall be constructed within 30 feet of an agricultural use. Subject to any further requirements within Chapter 20.38 WCC, Agriculture Protection Overlay.

3. 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.
Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

### Urban Residential Setbacks

#### Urban Residential Mixed Use (URMX)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
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</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collector s</td>
</tr>
<tr>
<td>45'</td>
<td>35'</td>
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</tbody>
</table>

#### Water Resource Protection Overlay

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<table>
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<tbody>
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<tr>
<td>5'</td>
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</tbody>
</table>

1. No specific setback requirements shall apply to a planned concept submitted for technical committee review. This provision could be used, for example, to allow zero-lot-line development.

#### Urban Residential Medium (URM)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
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</thead>
<tbody>
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<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collector s</td>
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<tr>
<td>45'</td>
<td>35'</td>
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</tbody>
</table>

#### Water Resource Protection Overlay

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<tbody>
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<td>20'</td>
<td>20'</td>
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<tr>
<td>5'</td>
<td>5'</td>
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</tbody>
</table>

1. Setback requirements for mobile home parks shall be 20 feet from the perimeter of the park for side and rear yards and shall be screened from neighboring uses in accordance with WCC 20.80.345.

#### Urban Residential (UR)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collector s</td>
</tr>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

41
Water Resource Protection Overlay

<table>
<thead>
<tr>
<th>45'</th>
<th>35'</th>
<th>25'</th>
<th>25'</th>
<th>25'</th>
<th>20'</th>
<th>(5^{1,2})</th>
<th>(5^{1})</th>
</tr>
</thead>
<tbody>
<tr>
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<td>30'</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
<td>20'</td>
<td>5'</td>
<td>5'</td>
</tr>
</tbody>
</table>

1. Setbacks shall be increased to 100 feet for those parcels situated adjacent to the Forestry Zone District, except that such parcels which are less than 20,000 square feet in a subdivision approved prior to January 1, 1987, and whose owners have filed an agreement with the county auditor as specified in WCC 20.20.651, shall be subject to the standard setback in WCC 20.80.210.

2. 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.

\(1\) Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; in no case will they extend more than one-half the depth of the front yard setback.

\(2\) Zero lot line side yard setbacks may be approved by the zoning administrator for single-family attached dwelling units along the common property line where the dwellings share a common wall.

Other Zoning Setbacks

Recreation Open Space (ROS)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
</tr>
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<tbody>
<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collectors</td>
</tr>
<tr>
<td>100'</td>
<td>100'</td>
</tr>
</tbody>
</table>

1. Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

2. Shoreline setbacks shall be administered consistent with the Shoreline Management Program of Whatcom County; provided, that a 25-foot setback is maintained from the ordinary high water mark of all water bodies and a 50-foot setback is maintained from the ordinary high water mark of fish spawn streams.

3. 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.

Water Resource Protection Overlay (WRPO)

<table>
<thead>
<tr>
<th>Road Type</th>
<th>Other</th>
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<tr>
<td>Commercial, Industrial, I-5, State Hwys, Principal &amp; Minor Arterials</td>
<td>Collector Arterials or Major Collector s</td>
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1. No additional standards.

1 Roof overhangs or other architectural features shall not project further than 18 inches into the side or rear yard setbacks. Such overhangs may extend six feet into the front yard setback; however, in no case will they extend more than one-half the depth of the front yard setback.

2 Refer to additional provisions of WCC 20.64.250 or 20.65.400.

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**20.80.255 Agriculture District. (Adopted by reference in WCCP Chapter 2.)**

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.
   - **Side Yards:** Minimum side yard setbacks shall be five feet.
   - **Rear Yards:** Minimum rear yard setbacks shall be five feet.
20.80.256 Forestry districts. (Adopted by reference in WCCP Chapter 2.)

(1) Setbacks shall be increased to 100 feet for those parcels in the Rural Forestry zone situated adjacent to the Commercial Forestry zone, except that such parcels whose owners have filed an agreement with the county auditor as specified in WCC 20.42.651 shall be subject to the standard setback in WCC 20.80.210. Forest industry buildings, stationary equipment or storage areas excluding scaling stations and watchman’s stations shall not be located within 100 feet of any other zone district.

(2) Parcels utilized solely for community centers shall observe the following minimum setback requirements: front yard: 50 feet; side yard: 25 feet; rear yard: 25 feet.

(3) Where a parcel, created pursuant to the clustering provision (WCC 20.42.300) or the planned unit development provision (Chapter 20.85 WCC) or when a permitted residence (WCC 20.42.056), adjoins an existing parcel of 20 acres or more in size or a parcel that is being cultivated for commercial forestry production, a minimum building setback of 100 feet shall be established from the common property line.

(4) For parcels of less than five nominal acres, unless the provisions of subsection (2) of this section are applicable, the zoning setback established by the zoning district shall be observed. ( 

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20.80.258 All districts. (Adopted by reference in WCCP Chapter 2.)

(1) 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.

(2) 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.

20.80.300 Landscaping. (Adopted by reference in WCCP Chapter 2.)

20.80.310 Purpose.

The purpose of this section is to provide minimum landscape development and buffering requirements in order to maintain and protect property values, enhance the appearance of development by softening the impact of structures, protect the aesthetic assets of the community, provide screening between incompatible land uses, reduce erosion and stormwater runoff, provide pervious surfacing to allow natural ground water recharge, promote energy conservation and use of solar energy, reduce heat and air and noise pollution, and promote safety through reduced glare and reduction of congestion and visual separation of traffic movement. The landscaping standards in this chapter are minimum requirements.

20.80.315 Scope.

This section shall apply to all permitted and conditional uses except as specifically listed below. It will apply to mobile home parks and recreational vehicle parks to
augment the standards found in WCC 20.80.950; in the case of conflicts the more restrictive regulations shall apply. Remodeling projects representing 50 percent of the assessed valuation of the structure are also covered by this section, but with the requirements modified as needed to fit the existing situation. Major conversions of use such as bed and breakfast establishments from single-family houses if five or more parking stalls are required are also included.

This section does not apply to:
(1) Farms and accessory uses associated with farming;
(2) Single-family houses and duplexes and their accessory uses when not developed as part of an overall complex;
(3) Subdivision(s), short subdivision(s) and binding site plans;
(4) Remodels representing less than 50 percent of the assessed valuation of the structure;
(5) Conversions of uses requiring less than five parking stalls.

20.80.320 Plans.
Prior to the issuance of a building permit a scaled landscape site plan shall be submitted to and approved by the land use division of planning and development services consistent with the provisions herein. This plan shall specify species name, size and location of all proposed plant materials and all existing trees over eight inches in caliper including those to be removed which shall be indicated. Existing trees which are part of a cluster of trees need not be individually identified. An irrigation plan or specified method of watering and the type and location of all proposed lighting shall also be included. Existing plants or native species which may need no watering should be so noted. The plan shall specify the treatment of the soil to protect its structure including method of protecting existing trees to remain and their root zones. The preferred scale of a plan shall be one inch equals 20 feet; but other scales may be used if approved by the zoning administrator, adequate detail can be conveyed and the scales correlate to other required site plans.

20.80.325 Landscaping location and spacing.
All required open space or any areas of the property not committed to a use requiring pervious surface must be landscaped. This may consist of any combination of trees, lawn, groundcover and shrubs and up to 20 percent of a nonvegetative decorative pervious material such as washed rock, bricks or paving stones. However at least one tree will be required for every 2,000 square feet of open space including walkways in addition to screening or planting along the property lines. Natural habitat other than noxious weeds may also be appropriate. Deciduous trees will also be required parallel to all public rights-of-way. Small trees will be spaced approximately 25 feet on center; medium trees, 35 feet on center; and large trees, 45 feet on center. Alternatively, informal clumpings of coniferous or broad-leaved evergreen trees and/or deciduous trees may be utilized in an amount equivalent to a row of trees spaced 25 feet on center. Small, medium and large trees, shrubs and groundcover approved for use in county rights-of-way are listed in the Whatcom County Development Standards, Chapter 5, Road Standards, Appendix I. Additional landscaping and screening is required as noted in other sections of this chapter.
20.80.330 Plant sizes at time of planting.

Evergreen trees shall be a minimum height of five feet with an average height of six feet above the finished planting bed. Deciduous trees shall be at least one and one-half inches in caliper measured four feet above ground level. Shrubs shall be at least 21 inches in height above finished grade. Ground cover shall provide an immediate coverage of at least 50 percent. In cases where they might interfere with vehicle or pedestrian traffic, deciduous trees should have a clear trunk area of at least seven feet above the ground.

20.80.335 Plant choices.

All species must be native to the area or recognized as being easily adaptable to the climate. Trees with weeping or contorted branching structures may be used as accent planting but should generally not be included as part of a screen planting or in plantings parallel to property lines. The county may require the applicant to modify the plant choice to:

1. Eliminate undesirable species which may conflict with power lines or sewers because of their growth or evasive root systems;
2. Provide a desired diversity of species; or
3. Make the plantings more in scale and compatible with the uses in the immediate vicinity of the subject property; or
4. Provide plant materials that will fulfill the buffering or landscaping purpose of that planting on a year-round basis;
5. Provide visual relief on long facades.

A list of desirable and undesirable trees with tree sizes is maintained on file with the land use division of planning and development services and may be used for reference.

20.80.340 Existing vegetation.

1. Applicants shall be encouraged to retain existing vegetation as appropriate.
2. Existing vegetation may be used to meet all or part of the landscaping requirements of this chapter.

20.80.345 Buffering plantings.

Buffers are required when the proposed use is in a commercial or industrial zone and is directly adjacent to and shares a common boundary with property in a rural or residential zone. They are normally 25 feet wide unless otherwise approved by the administrator upon receipt of a detailed planting plan prepared by a landscape architect or qualified landscape designer. Buffering plantings are intended to provide an all-season visual screen between commercial or industrial uses on one side, and rural or residential uses on the other side. Landscape buffers may be required on road frontages as a condition of development for commercial or industrial development that includes outside storage of materials, outside parking of equipment or vehicles other than vehicles for sale on the site, and similar uses that can be a visual distraction or unsightly to persons on the public right-of-way. Plant materials that have minimal irrigation needs, and are native or have a demonstrated suitability for Whatcom County are required. Twenty-five-foot planted buffers shall, at a minimum, consist of two offset rows of predominantly coniferous trees at an average spacing of 15 feet triangulated on center or an equivalent effect. Some deciduous trees shall be included and shrubs may be interspersed to provide interlocking
root structures to reduce windthrow. Fifty-foot planted buffers will require four rows of trees in the same triangulated pattern as required in 25-foot buffers. Existing natural buffers are encouraged but may need additional width or be augmented with additional landscaping or fencing to provide the required sight barrier.

The buffer requirements for the Neighborhood Commercial zone when abutting the Urban Residential Medium Density zone (except as otherwise provided in WCC 20.60.552) can be met with a six-foot-high sight-obscuring fence or a dense hedge of sight-obscuring plantings.

20.80.355 Trash and or garbage collection storage areas – Screening and placement.

All trash and/or garbage collection and storage areas must be screened from view from adjacent streets and properties using a solid fence or wall a minimum of six feet high.

20.80.410 Signs – General provisions – Applicable to all districts.

1. No sign or any portion of a sign shall be located on or over public property, such as road rights-of-way and easements, transmission line corridors or utility easements. Standard building height limits and setbacks shall apply to all signs unless otherwise provided elsewhere in this title or in other county codes or regulations including the county’s shoreline management program and the Point Roberts Character Plan. All freestanding signs advertising on-premises operations may be located within required landscaping areas, except that no such sign shall be closer than 10 feet to the road right-of-way. This distance shall be increased if it can be shown to present a traffic hazard.

2. On-premises signs meeting the requirements of WCC 20.80.420 to 20.80.460 are permitted. Other than exempt signs under WCC 20.80.470, all other signs in the Recreation and Open Space District are prohibited and all other signs in other districts conditionally permitted subject to meeting the requirements of WCC 20.84.200.

3. Off-premises advertising signs are prohibited in all districts except adjacent to arterial roads or Interstate 5 in General Commercial or Industrial Districts where they require a conditional use permit. Maximum sign size shall be 288 square feet and not more than 25 feet high. Minimum separation between off-premises advertising signs shall be a 500-foot radius. All off-premises advertising signs shall meet the setback requirements found in WCC 20.80.215. Off-premises signs may be back to back only; no V-type signs are allowed. Off-premises signs may display at most two advertisements per side. The number of off-premises advertising signs within the county shall not exceed 18, which is the total of existing off-premises advertising sign structures that as of April 30, 1990 (a) had a county conditional use permit and (b) those facing Interstate 5 within Commercial or Industrial Districts with a valid state permit. Permit holders for the existing 18 signs may replace any sign they remove with a new sign subject to obtaining conditional use approval for the new sign. By no later than April 30, 1996, all conforming off-premises advertising
signs which became nonconforming as a result of new regulations adopted the 7th day of August, 1990, shall meet all requirements of said regulations or be abated; provided, that those signs holding valid conditional use permits need not conform to the setback from residence requirement of WCC 20.80.215(4).
(4) Signs shall not depict or describe “specified sexual activities” or “specified anatomical areas” as defined in WCC 20.97.008.

20.80.420 Neighborhood Commercial District sign regulations.
(1) Single-faced signs placed on walls or eves of business establishments shall not exceed 32 square feet.
(2) One freestanding sign is permitted for each Neighborhood Commercial Zone District. Each sign shall not exceed 64 square feet with a maximum height of 10 feet.
(3) Lighted signs shall only be internally or indirectly illuminated.
(4) Reader board signs shall be allowed for tenant identification only, and merchandise or price special advertising shall be prohibited.
(5) Off-precises advertising signs are prohibited.

20.80.430 Rural General Commercial and General Commercial District sign regulations.
(1) Single-faced signs placed on walls or eves of business establishments shall not exceed 100 square feet in area. Freestanding signs shall not exceed 64 square feet in area. Roof signs shall not extend laterally beyond the roof it is located on and shall not exceed 100 square feet in area.
(2) Freestanding signs shall not exceed 25 feet in height and wall-mounted signs shall not exceed the actual building height. Roof signs shall not extend more than five feet above the peak of the roof.
(3) Lighted signs shall only be internally or indirectly illuminated.

20.80.435 Tourist Commercial District sign regulations.
(1) Signs shall be located on the premises with the use they are identifying.
(2) Single-faced signs placed on walls or eves of business establishments shall not exceed eight percent of the facade area where the sign will be located plus eight square feet. No more than one wall sign shall be permitted per facade. The facade area includes any one side of a building composed of walls, windows and doors.
(3) Elevated signs shall not exceed 250 square feet in area on any one face, nor exceed four faces per sign and shall be located no closer than 200 feet apart regardless of ownership or number of businesses.
(4) Signs shall not exceed 40 feet in height except as provided for in paragraph (7) below.
(5) Off-precises advertising signs are prohibited.
(6) Lighted signs shall only be internally or indirectly illuminated.
(7) One of the freestanding on-premises signs shall be permitted additional sign height subject to the following criteria:
   (a) The sign identifies a business with a significant freeway orientation such as a business offering lodging, food, fuel or automobile service.
   (b) The sign is within 1,500 feet of a freeway interchange, measured from the intersection of the centerline of a freeway and the centerline of the intersecting roadway.
   (c) The permitted sign height shall not exceed 50 feet above the elevation of the overpass or freeway (whichever is higher) at the intersection of the freeway centerline and the centerline of the intersecting roadway.

20.80.440 Small Town Commercial and Resort Commercial District sign regulations.
   (1) All uses shall be allowed on-premises signs in connection with any permitted, accessory or conditional use, subject to the following provisions:
   (2) One freestanding sign for each road frontage, not to exceed 10 feet in height, and one wall sign; with total surface area of all signs not to exceed:
      (a) Twelve square feet for each road frontage for multiple family and rooming houses with less than or equal to 20 units;
      (b) Forty square feet for each road frontage for hotels and motels; provided, that on any road frontage exceeding 160 feet, 60 square feet shall be allowed; and
      (c) Twenty-four square feet for each road frontage for all other uses.
   (3) Lighted signs shall only be internally or indirectly illuminated.
   (4) Reader board signs shall be allowed for tenant identification only, and merchandise or price special advertising shall be prohibited.
   (5) Signs shall be nonmoving, nonfluttering, and nonrotating, with pennants, banners, small lights and similar decorations of a seasonal or holiday or special event character allowed for up to 90 days per year.
   (6) Off-premises advertising signs are prohibited.

20.80.450 General Manufacturing, Light and Heavy Impact Industrial, Rural Industrial and Manufacturing, and Airport Operation Districts sign regulations.
   (1) Unlighted temporary building signs not to exceed 64 square feet in area, with message limited to the name, address and phone number of the project, contractor, architect, and financial source shall be permitted.
   (2) Real estate signs shall be limited to one sign per street frontage, shall be unlighted and shall not exceed 64 square feet in area.
   (3) The following regulations shall apply to permanent signs for industrial uses:
      (a) All signs must be an integral and coordinated part of a site design plan for the entire complex.
(b) One freestanding sign shall be permitted at the entrance to each individual site; provided, that total sign area for any one face does not exceed 64 square feet.

(c) One freestanding sign not higher than 25 feet shall be permitted at each main entrance to an industrial park. The message of said sign shall be limited to the name of the park and its occupant(s). Sign area of any one face shall not exceed 275 square feet.

(d) Wall signs shall be flush against the building and shall not exceed 25 percent of the total wall area, on which they are located less windows and doors.

(e) Roof signs not greater than five feet above the peak of the roof and not extending beyond the roof it is located on shall be permitted.

(4) For nonindustrial uses the following regulations shall apply:

(a) One freestanding sign not to exceed 64 square feet in surface area per sign face. A maximum of two sign faces shall be allowed. Height of this sign shall not exceed 25 feet.

(b) Single-faced signs on walls or eaves not to exceed a cumulative total of 100 square feet in area.

(c) Roof-mounted signs with a maximum of two faces per sign not to exceed a cumulative total of 100 square feet in surface area per face (or faces visible from one direction). These signs shall not extend laterally beyond the roof nor more than five feet above the highest point of the roof.

20.80.460 Recreation and Open Space District sign regulations.

(1) One freestanding sign for each road frontage shall be permitted; provided the sign does not exceed six feet in height and surface area does not exceed 24 square feet. Sign setbacks shall be at least 20 feet from the edge of a county or state road right-of-way, or 25 feet from adjacent nonpublic property lines.

(2) One wall sign for each accessory or conditionally permitted structure shall be permitted; provided total sign area does not exceed 12 square feet.

(3) Signs demarcating public property boundaries shall be permitted; provided total sign area for each individual sign does not exceed three square feet. Said signs may be located at property lines.


(1) Not more than two identification signs, with a maximum of 32 square feet total area for each storefront shall be permitted; provided, that said sign(s) shall not project above any part of the roof line. Signs may extend 24 inches from the wall or to the edge of a permanent canopy or awning of the building to which it is attached. At least one of the signs for an individual business must be readable to pedestrians on the adjacent sidewalk.
(2) Said signs shall be harmonious and compatible with the character of the surrounding area.

(3) Signs may only be illuminated by an indirect external source.

20.80.630 Stormwater and drainage. (Adopted by reference in WCCP Chapter 2.)

(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, 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

20.80.640 Driveways.

A permit shall be obtained from the county engineer or State Department of HighwaysTransportation, as appropriate, prior to the construction of any driveways on a public right-of-way. The location of driveways adjacent to a property line functioning as one point of ingress and egress to both properties shall be encouraged and shall be considered as one driveway. The location of driveways shall be in accordance with standards adopted by the county or State Department of Highways Transportation as appropriate and approved by the county council. These standards shall regulate location, width and alignment as they relate to safety and traffic congestion.
Chapter 20.83
NONCONFORMING USES AND PARCELS

20.83.040 Change to another nonconforming use.
The change of a nonconforming use to another type of a nonconforming use shall be conditionally permitted, except that a nonconforming use shall not be changed to an adult business. The change of nonconforming use shall be approved if it is consistent with the applicable zoning regulations, except the use restrictions, and complies with WCC 20.84.220(2) to (89), providing such change does not require the provision of water and sewer utility services at a level greater than that currently available to the subject property, and that the new nonconforming use does not result in greater impacts upon surrounding properties than did the original nonconforming use.

20.83.130 Affidavit of nonconforming use.
When a nonconforming use of a property is challenged through a complaint from the public or by initiative of the zoning administrator, the burden of proof of applicability of WCC 20.83.010 above, shall rest with the property owner. The owner shall make public record of his right of nonconforming land use status by filing an affidavit of nonconforming use with the zoning administrator that contains the legal description of the affected property, the purpose for which the property is used and any other facts necessary as evidence to verify the legitimacy of the nonconformity. The affidavit shall be accompanied by a filing fee as listed on the current fee schedule. The zoning administrator or designee shall make a site examination to verify the nonconforming use and endorsed upon the affidavit if found to be as represented by the applicant.
The administrative determination to endorse or not to endorse a nonconforming use may be appealed under WCC 20.92.210(2) 20.84.240.

Chapter 20.84
VARIANCES, CONDITIONAL USES, ADMINISTRATIVE APPROVAL USES AND APPEALS

20.84.220 Criteria.
Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use district defining the conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location:
(1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County’s Comprehensive Plan and zoning regulations.

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

(3) If located in a rural area (as designated in the Comprehensive Plan), will be consistent with rural land use policies as designated in the rural lands element of the Comprehensive Plan.

(4) Will not be hazardous or disturbing to existing or future neighboring uses.

(5) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

(6) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

(7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

(8) 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) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.


20.84.240 Appeals.
The hearing examiner shall have the authority to hear and decide, in conformity with this chapter, appeals from any order, requirement, permit decision or determination made by an administrative official in the administration or enforcement of this chapter where more than one interpretation is possible; provided, that such appeal shall be filed in writing within 14 days of the action being appealed. If an appellant prevails in an appeal of an administrative approval decision, the appellant’s appeal fees shall be refunded. The appeal fee on a code violation will be re-
funded if the appellant can prove by clear and convincing evidence that a violation did not occur. Appeals of administrative approval use permit decisions for adult businesses shall be made directly to the county council pursuant to WCC 20.92.825, and shall not be subject to the provisions of WCC 20.84.240.

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Chapter 20.85

PLANNED UNIT DEVELOPMENT (PUD)

20.85.020 Applicability.

This chapter is applicable in any zone district within an urban growth area and short-term planning area. The provisions of this chapter can be used for any residential, commercial and/or industrial project on property two acres or greater in size; provided, however, that residential PUDs are not permitted in the Cherry Point Industrial Urban Growth Area or in the Custer Provisional Urban Growth Area. Transfer of development rights shall be utilized within designated density transfer receiving areas as shown on the official Whatcom County zoning map to achieve the allowed maximum density prior to the utilization of the density bonus provisions of this chapter. A planned unit development may be used on property less than two acres in size when the zoning administrator finds one or more of the following conditions exists:

.021 An unusual physical or topographic feature of importance to the area as a whole exists on the site or in the neighborhood, which can be conserved and still leave the applicant equivalent use of the land by the use of a planned unit development.

.022 The property or its neighborhood has a historical character of importance or the community that will be protected by use of a planned unit development.

.023 The property is adjacent to or across a street from property which has been developed or redeveloped under a planned unit development, and a planned unit development will not detract from the amenities and aesthetic values of the neighboring planned unit development.

.024 The project will use unique or innovative design concepts which would benefit the public welfare including design provisions which would be precluded by the underlying district.

.025 The project would meet an important social need that cannot be realized with the underlying zone.

.026 The project will promote creativity or affordability in residential, commercial and industrial development.
Chapter 20.90

AMENDMENTS*

20.90.070 Transmittal of amendments to the state.
Pursuant to RCW 36.70A.106(3) and WAC 365-195-620, the department of planning and development services shall notify and transmit copies of initiated amendments to this title and the official Whatcom County zoning map to the Washington State Department of Community, Trade and Economic Development (CTED) and other state agencies identified on a list distributed by CTED Commerce at least 60 days prior to final adoption. The department of planning and development services shall also transmit a complete and accurate copy of zoning amendments to CTED Commerce within 10 days after the enacting ordinance is signed by the county executive.

Chapter 20.97

DEFINITIONS

20.97.065 Commission.

"Commission" means the planning commission of Whatcom County. Reserved.

20.97.295 Permanent foundation.

"Permanent foundation" means a foundation constructed of masonry, concrete or treated wood in conformance to the requirements of the current code as adopted and amended per Whatcom County Code, Title 15, Building & Construction, Uniform Building Codes, and shall extend below the frost line or other method as accepted by the building official.
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

I. BACKGROUND INFORMATION

File # PLN2012-00012

File Name: Title 20 Update

Applicant: Whatcom County

Summary of Request:

Amendments to the Whatcom County Zoning Code to remove errors and inconsistencies.

Location:

County-wide

Staff Recommendation:

Approval

History

In December 2012, the County Executive appointed a Title 20 Review Advisory Committee to work with Planning and Development Services (PDS) staff to find ways to correct errors and eliminate inconsistencies in the County’s Zoning Code (WCC Title 20). The Executive stated the purpose of the review was to make the code clearer and more user-friendly but not to revise the content of the code provisions to make them more, or less strict, or lenient. The Executive suggested that changes to the content requiring policy discussions be set aside for possible docketing in the future.

The committee met with staff eight times in early 2013 and forwarded a memorandum to the Executive in July, 2013 outlining its recommendations (see attached). The committee recommended several amendments to Title 20, as well as some future actions that would require further study. The committee’s recommended Title 20 amendments are now being forwarded to the Planning Commission for consideration.
II. PROPOSED AMENDMENTS

This group of Title 20 amendments is generally limited to corrections of errors and inconsistencies that could lead to confusion in interpreting the code. Proposed amendments include the following:

- **Correct outdated building code references.** Specific references to building codes are replaced with a reference to Title 15 where the currently adopted codes are listed. (WCC 20.13.110, 20.59.100, 20.67.100, 20.69.110, 20.69.656, 20.70.654, 20.97.295)

- **Restore recreational vehicle and one accessory guest recreational vehicle as a permitted use in UR zones in the Foothills Subarea.** This provision, which only affects only the Columbia Valley UGA, was intermittently removed during the Rural Element zoning code amendments of 2011 (WCC 20.20.135)

- **Revise references to the State Department of Highways.** The name of that agency changed to the Department of Transportation but code references did not reflect the change. (20.22.656, 20.44.653, 20.59.705, 20.60.656, 20.61.705, 20.62.654, 20.63.655, 20.64.656, 20.65.655, 20.66.654, 20.67.654, 20.68.654, 20.73.651, 20.80.640)

- **Correct references to the code’s definition of cottage industry.** The location of the cottage industry definition was changed from 20.97.087 to .089 but references throughout the code did not reflect that change. (WCC 20.32.135, 20.34.134, 20.35.132, 20.36.161, 20.40.135, 20.40.155, 20.42.135, 20.42.164)


- **Change reference from “bed and breakfast lodgings” to “bed and breakfast inns.”** No other reference to bed and breakfast lodgings exists in
the code; definitions exist in 20.97.027 and .028 for bed and breakfast establishments and inns but not lodgings. (WCC 20.36.170)

- **Remove reference to the Birch Bay-Lynden Road area under the Gateway Industrial District’s building height limitations.** Gateway Industrial zoning no longer exists in the Birch Bay Lynden Road area because of the 2011 rezones that were part of the Rural Element amendments. (WCC 20.65.400)

- **Revise maximum square footage for an accessory storage building structure in Point Roberts Special District.** This square footage was revised in other zones from 120 to 200 square feet, except in this district. (WCC 20.172.130(5))

- **Remove reference to repealed WAC sections in Chapter 20.78 Transportation Concurrency Management.** (WCC 20.78.010)

- **Clarify screening requirements for trash storage areas.** Current wording is unclear as to whether screening requirements apply to trash/garbage collection storage areas or to all storage areas. (WCC 20.80.355)

- **Correct references for on-premises sign requirements.** Reference to 20.80.465 (URMX) sign regulations is not included with reference to other zone’s sign regulations. (20.80.410)

- **Correct a reference to conditional use criteria.** A change of one nonconforming use to another requires a conditional use permit, and references to the conditional use permit provisions in WCC 20.84.220 do not currently include all subsections (2) to (9) because of an addition to the criteria. (WCC 20.83.040)

- **Correct a reference to conditional use appeals.** Appeal of an administrative determination on a nonconforming use should refer to the conditional use appeal process in WCC 20.84.240 rather than the hearing examiner decision provisions of WCC 20.92.210(2). (WCC 20.83.130)

- **Remove outdated reference to a UGA.** The Planned Unit Development provisions currently prohibit residential PUD’s in the Custer Provisional Urban Growth Area, though that UGA no longer exists. (WCC 20.85.020)

- **Remove outdated references to WAC and State Department of Community, Trade, and Economic Development (CTED).** In Chapter 20.90 Amendments, transmittal requirements refer to a WAC provision that has been repealed and to the former name of the current Department of Commerce. (20.90.070)

- **Remove definition of “commission” to mean “planning commission of
Whatcom County. “Title 20 consistently refers to the Planning Commission rather than "commission" so the definition is unnecessary.

In addition to the above amendments proposed for immediate adoption, the committee makes a number of recommendations for future action in the attached memorandum. Many of these would entail docketing a specific code amendment for consideration by the Planning Commission and County Council, where the policy implications of the issue can be thoroughly discussed. Additional items that could be considered include:

- Consolidate Chapter 20.74 requirements into Chapters 20.66 and 20.68, which was discussed by the committee as a means of eliminating an unnecessary chapter without changing the content of the zoning requirements, and

- Adopt “procedures for administrative interpretation of development regulations,” as required by RCW 36.70B.110(11).

III. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

1. The County Executive appointed a Title 20 Review Advisory Committee to work with Planning and Development Services staff to correct errors and eliminate inconsistencies in the County’s Zoning Code.

2. The committee and staff met eight times in early 2013 and forwarded a memorandum to the Executive in July, 2013 outlining its recommendations, including the proposed amendments.

3. A State Environmental Policy Act (SEPA) determination of non-significance (DNS) was distributed on August 26, 2013.

4. The proposed amendment was posted on the County website August 22, 2013.

5. 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 August 22, 2013.

6. Notice of the subject amendment was submitted to the Washington State Department of Commerce on August 1, 2013.

7. Notice of the Planning Commission hearing for the subject amendment was published in the Bellingham Herald on August 30, 2013.

8. Notice of the Planning Commission hearing for the subject amendment was
posted on the County’s website on August 22, 2013.

9. The Planning Commission held a public hearing on the subject amendment on September 12, 2013.

10. 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.

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

Staff recommends the Planning Commission forward to the County Council a recommendation of approval of the attached draft Zoning Code amendments.

Attachments:

July 29, 2013 Memorandum: Recommendations of the Title 20 Review Advisory Committee

Draft Title 20 Amendments
MEMORANDUM

TO: County Executive Jack Louws
FROM: Title 20 Review Advisory Committee
DATE: July 29, 2013
SUBJECT: Title 20 Review Recommendations

In December 2012 you appointed an advisory committee to work with Planning and Development Services staff in drafting changes to the County’s zoning code, WCC Title 20. In your appointment letter you stated the purpose of this Title 20 review:

The purpose of this project is to correct errors and eliminate inconsistencies in the zoning code, making the code clearer and more user-friendly. The intent is not to revise the content of code provisions to make them more, or less, strict, or lenient. In general, any proposal to make a policy-related change should be considered in a separate process and should be set aside for possible docketing in the future.

Because improved public service is the overarching goal of the Executive’s initiation of the Title 20 review project, the committee discussed a number of topics with the goal of making the code more clear and concise, and making the development process more easily understood by the public. As a result, the recommendations of the committee involve amendments to Title 20 as well as other tools to help the public more easily navigate the permitting process at PDS.

The advisory committee met eight times during the first half of 2013, examining various code sections that were suggested by PDS staff or by committee members as needing clarification or correction. For some of these sections the committee developed the recommended changes shown in the attached draft Title 20 amendments. PDS will forward these recommendations to the Planning Commission for consideration.

The committee believes further work is necessary and recommends the effort to make the code clearer and more user-friendly be continued. The next phase would likely be a more extensive process that would include changes to the content of the code that would involve some public policy decisions. The committee recommends that a future phase of this project include consideration of the following specific topics to ensure clarity, maintain consistency with existing law, and make sure the rules have a legitimate public purpose:
• Revise or consolidate various terms and definitions (e.g. “gas station” and “service station,” “building” and “structure,” “agriculture” and “agricultural processing”)
• Consider re-formatting the zoning code chapters to consolidate similar types of zones into a single chapter. As an illustration, PDS staff drafted a single chapter that consolidated five rural zones into one chapter with a matrix that showed which uses were allowed (outright, administratively, and conditionally) in each zone. This illustration was promising in that it had the potential to eliminate a significant amount of duplication, but pointed out the need for some of the policy-oriented amendments listed above to eliminate duplicative or inconsistent descriptions of uses. This consolidation approach could be applied to commercial zones, industrial zones, and urban zones as well.
• Eliminate the Eliza Island (EI) zone
• Rename the Rural Residential-Island (RRI) and Transitional Zone (TZ) to reflect that they are specific to Lummi Island and Point Roberts, respectively
• Make sign standards in Small Town Commercial (STC) zones consistent with those of other rural commercial zones (WCC 20.80.44)
• Clarify that the Rural Residential Density Overlay calculation (WCC 20.32.252 and 20.36.252) defines new density rather than lot size, so that clustering would be possible
• Change zoning for Scenic Estates zoning on Lummi Island – currently RF but per 20.42.010 it is “administered under RRI”
• Clarify the square footage for a pump house that requires a conditional use permit in WCC 20.82.022
• Clarify what type and size of water storage tanks is a permitted use per WCC 20.82.023
• Clarify references to Urban Fringe Subarea maps
• Clarify whether appeal fees discussed in WCC 20.84.240 can be refunded
• Incorporate “plain language” principles in any revision of the zoning code

In addition, the committee recommends the following actions be taken by the County:
• Improve existing FAQ pages on the PDS web site, and provide additional information on some of the most commonly asked questions, including whether a property owner can build a second dwelling on a parcel (see PDS draft, attached) update handouts – consistency with current code
• Continue to work toward providing Geographic Information Systems (GIS) capability on the County’s web site, so the public can access maps and parcel data online, as is common in other counties
• Make PDS code interpretations available to public – over the years PDS has written interpretations of various code provisions, which should be available via the County web site

The committee members listed in the attached roster thank you for the opportunity to serve in this advisory role and encourage the County to continue in its efforts to improve its service to the public.
Attachments:

- Draft Title 20 amendments
- Title 20 Review Advisory Committee Roster
- Title 20 Review Advisory Committee Meeting Summaries
- Draft paper on second dwellings
WHATCOM COUNTY
PLANNING COMMISSION

Title 20 Update

FINDINGS OF FACT AND REASONS FOR ACTION

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10. 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 and implements the Whatcom County Comprehensive Plan.

RECOMMENDATION

Based upon the above findings and conclusion, the Whatcom County Planning Commission recommends approval of the proposed amendments as shown on Exhibit A, and forwards the recommendations of the Title 20 Review Advisory Committee as shown in Exhibit B.

WHATCOM COUNTY PLANNING COMMISSION

Michelle Luke, Chair

Sam Ryan, Secretary

Date 9-19-13

Commissioners present at the September 12, 2012 meeting when the vote was taken: Ken Bell, Ben Elenbaas, Rod Erickson, John Lesow, Michelle Luke, David Onkels, Jeff Rainey, Mary Beth Teigrob, and Gerald Vekved.

Vote: Ayes: 9, Nays: 0, Abstain: 0, Absent: 0. Motion carried to adopt the above amendment.