WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
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<td>Erin E. Osborn</td>
<td>ECO</td>
<td>7/8/14</td>
<td>July 22, 2014</td>
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<td>Prosecutor: Royce Buckingham</td>
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Purchasing/Budget: A. 1. 1. 1. 1.

EXECUTIVE:

Jack Louws

TITLED OF DOCUMENT:

A resolution approving recommendations on five applications for open space current use assessment on lands located within unincorporated Whatcom County.

ATTACHMENTS:


SEPA review required? ( ) Yes ( X ) No Should Clerk schedule a hearing? ( X ) Yes ( ) No
SEPA review completed? ( ) Yes N/A Requested Date: August 5, 2014

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

In accordance with Whatcom County Code, Section 3.28.020 which establishes procedures for processing applications for open space current use taxation, Whatcom County Planning Commission recommendations are hereby forwarded to the Whatcom County Council to approve in whole or in part or to deny five applications for open space current use assessment as authorized by the Open Space Taxation Act (Chapter 84.34 RCW). The lands that are the subject of these applications are located entirely within unincorporated Whatcom County. A draft resolution has been prepared to initiate Council action should the Council wish to approve Planning Commission recommendations.

Note: Because this group of applications contained a “split” jurisdiction application on lands located within the City of Ferndale, a separate agenda bill has also been prepared to introduce a separate resolution, and to request a separate hearing so that the County Council can act on the portion of the land in one particular application on lands located within the City of Ferndale, separately from its action on lands that are in this group of applications located entirely in unincorporated Whatcom County. The City of Ferndale has indicated that it will likely hold a public hearing on this portion of the subject application (E. Bailey/Bailey Trust) on or about August 18, 2014.

* Distribution Request: Assessors Office – Janice Judge

COMMITTEE ACTION:

COUNCIL ACTION:

7/22/2014: Introduced 7-0
8/5/2014: Held – proposed Schedule 9/16 Natural Resources/Council

Related County Contract #: Related File Numbers: OS2014-1 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: Honorable Jack Louws, Whatcom County Executive, & Honorable Members of the Whatcom County Council

THROUGH: J.E. "Sam" Ryan, Planning & Development Services, Director

FROM: Erin Osborn, Planner

DATE: July 9, 2014

SUBJECT: Open Space Applications in Unincorporated Whatcom County

Presented here for your consideration is an attached packet containing recommendations from the Planning Commission on five applications to classify or reclassify land, for the purposes of open space taxation, on lands located entirely within unincorporated Whatcom County. A draft resolution is also attached should the Council wish to approve recommendations made by the Planning Commission.

You are also being asked to review a second open space application packet that is being introduced at the same time. This is an application to reclassify land located within the City of Ferndale, and because the land is located within an incorporated area, the application requires a slightly different approval process. All of these applications were reviewed as one group by the Planning Commission last month, and are now separated according to their different approval processes.

Staff recommended approval on all of the applications. Planning Commissioners voted to approve all of the applications except for one. They voted to recommend denial on the Sunset SW LLC application for Timber Land which is located on the shore of Lake Whatcom. However, staff review indicates that this application should be approved because it conforms to application approval criteria.

Note: Open Space Land (including its sub-classification Farm and Agricultural Conservation Land), and Timber Land applications may be approved by the County Council subject to conditions, so long as these conditions do not “...conflict with state law and not arbitrarily or capriciously restrict access to either classification.” (DOR, PTA NUMBER 16.1.2011).

The Planning Commission voted to recommend that Council approve the Hemnes application to reclassify Farm and Agricultural Land to Farm and Agricultural Conservation Land subject to a unique and unprecedented condition. Staff recommends approval of this application, and strongly supports the intent of the Planning Commission’s recommendation; however after discussion with County legal staff and Department of Revenue staff, staff is requesting that Council
consider a slightly different wording for the condition. The language contained in the Planning Commission condition is listed below, followed by staff’s recommended language.

Planning Commission Recommendation:

"Within four years of date of approval for reclassification to Farm and Agricultural Conservation Land the applicants (owners) must apply for and be approved for reclassification back to the Farm and Agricultural Land as defined in RCW 84.34.020(2)(c)."

Staff Recommendation:

"Within four years of application approval for reclassification to Farm and Agricultural Conservation Land, the applicants must apply for and demonstrate that they meet income requirements established in the Open Space Taxation Act for approval of the Farm and Agricultural Land classification as it is defined in RCW 84.34.020(2)(c)."

Staff’s recommendation is based on a reconsideration of the purpose of the reclassification and the definition of the classification being sought, i.e. land previously classified as farm and agricultural land that no longer meets income requirements associated with that classification:

If a condition requires approval by independent entity, and if for some reason it was not approved, even though the applicants might show income to qualify for returning to classification as farm and agricultural land, and even though they might apply, so if disapproved, a condition to require approval might not be consistent with state law or the purpose of classification, and failure to meet the condition (as described) would be outside of the applicant’s control.

Staff also notes that it would be in the interest of the applicant to apply for farm and agricultural land classification, because if approved, the reduction in assessed value would likely be more than with the farm and agricultural conservation land classification.

I look forward to presenting a brief overview on these applications, and answering questions at an upcoming public hearing.

Thank you.
RESOLUTION NO: ________________

APPROVING RECOMMENDATIONS ON APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENT

WHEREAS, The Open Space Taxation Act, codified as Chapter 84.34 RCW, gives counties authority to approve applications for current use classification and reclassification for the following classifications: Open Space Land, Farm & Agricultural Conservation Land, Farm and Agricultural Land, and Timber Land; and

WHEREAS, Pursuant to Whatcom County Code, Section 3.28.020, applications for the classification of Open Space Land, Farm & Agricultural Conservation Land and Timber Land are received and evaluated by Whatcom County Planning and Development Services Department staff, and the results of this evaluation are then presented to the Whatcom County Planning Commission for their review and consideration in making recommendations to the County Council on whether to approve the applications in whole or in part; and

WHEREAS, Pursuant to RCW 84.34.055 and WAC 458-30-330 Whatcom County has adopted a Public Benefit Rating System (PBRS) by Ordinance # 95-040, which is used by staff to rate applications for Open Space Land and Open Space Farm & Agricultural Conservation Land; and

WHEREAS, Applications for Open Space Land and Open Space Farm & Agricultural Conservation Land are evaluated with the Public Benefit Rating System and assigned a Public Benefit Rating (PBR) that corresponds with a staff recommendation of approval or denial, and must receive a score of 45 or above for a staff recommendation of approval; and

WHEREAS, In accordance with the Whatcom County Open Space Policies and Public Benefit Rating System, public access is a condition of approval for Open Space Land applications, except that this requirement may be waived by the Council when the purpose of the classification is for the conservation of
wetlands; or when there is a documented occurrence of: State or Federal Threatened Endangered Species, Federal Proposed Endangered or Threatened Species, State Sensitive or Monitor Species; or when there is a known or potentially significant archaeological site; and

WHEREAS, Pursuant to Whatcom County Ordinance # 95-040 applications for Timber Land are no longer reviewed under the County's PBRS, and are instead reviewed for consistency with the definition of Timber Land as defined in RCW 84.34.020(3) and the required Timber Management Plan is reviewed for conformance with RCW 84.34.041; and

WHEREAS, On June 26, 2014, the Whatcom County Planning Commission held a work session and considered staff recommendations, asked clarifying questions from applicants or their agents who were present on applications referenced in Master File Number OS2014-1, and voted to make recommendations to the Whatcom County Council on whether to approve in whole or in part or deny each application; and

WHEREAS, Pursuant to RCW 84.34.037, applications to classify or reclassify lands that are located entirely within unincorporated Whatcom County are approved or disapproved by the County Council who acts as the granting authority; and

WHEREAS, One of the applications referenced under Master File Number OS2014-1 (E. Bailey & Bailey Trust) was a split jurisdiction application, comprising lands located both in the City of Ferndale and also comprising lands located within unincorporated Whatcom County; and

WHEREAS, Applications to classify or reclassify land that are located entirely within an incorporated area must be acted upon by a joint granting authority composed of members from each respective jurisdictions legislative authority, whereby applications may be approved by each legislative authority taking separate but affirmative acts, or by three members of each legislative body meeting together to act as one body for the purposes of approval or denial; and

WHEREAS, The City of Ferndale Planning Director indicated that due to various challenges associated with scheduling, the Ferndale City Council would likely prefer to act separately on the applications, and proposed that the City would schedule and hold a separate hearing on the subject applications on or about August 18, 2014; and

WHEREAS, On August 5, 2014, in good faith that the City of Ferndale would take its own action on the application within its jurisdiction, the Whatcom County Council held its own public hearing and considered recommendations from the Whatcom County Planning Commission, staff recommendations, and
considered all input from the public on applications referenced in Master File Number OS2014-1 that are located on lands located entirely within unincorporated areas of Whatcom County, and held another separate hearing on the application on lands located in the City of Ferndale; and

WHEREAS, Pursuant to WAC 197-11-800(6)(c), matters relating to Open Space Current Use Assessment are categorically exempt from environmental review under the State Environmental Policy Act (SEPA); and

WHEREAS, Pursuant to RCW 36.70.390, the statutory requirements regarding legal notice have been met; and

WHEREAS, The County Council has adopted the following Findings of Fact and Reasons for Action:

1. Whatcom County Planning and Development Services received five applications to classify or reclassify land under the open space current use program (Chapter 84.34. RCW) on lands located within the jurisdiction of Whatcom County and on lands located within the City of Ferndale. These applications were processed as a group under Master File Number OS2014-1.

2. Of the five applications referenced in OS2014-1: one is for Open Space Land (OSL), one is for Farm and Agricultural Conservation Land (a subclassification of open space land) (OSFACL), and three applications are for the classification of Timber Land (OSTL). Upon receipt of these applications, Planning and Development Services staff evaluated the open space land and farm and agricultural conservation land applications with the Public Benefit Rating System (PBRS), and evaluated applications for timber land for conformance with Subsection 84.34.020(3) & 84.34.041 of the Open Space Taxation Act (RCW 84.34).

3. Staff prepared a report for the Planning Commission with recommendations on whether to approve in whole or in part or to deny these applications based on review with the applicable evaluation criteria and scores assigned (as applicable). This report was presented to the Whatcom County Planning Commission and to members of the public who were present at the Whatcom County Planning Commission meeting work session held on June 26, 2014.

4. At the June 26, 2014 Planning Commission Work Session, staff gave an approximately 30 minute overview presentation on the Open Space Current Use Program, its statutory and local authority, a brief overview on the Open Space Taxation Act, and outlined the respective roles of the Planning Commission, County Council, County Assessor’s Office, and Joint Granting Authority (for applications located within incorporated areas) in reviewing these type of applications. As part of this overview presentation, staff noted that decisions made to approve or deny applications authorized under the Open Space Taxation are reviewable (by
Superior Court) only for “arbitrary & capricious actions”. Staff also noted, that based on earlier Planning Commission suggestions, and per direction from the County Council and County Executive a preliminary draft report had been prepared by staff which summarized the PDS open space current use program, analyzed key issues in program administration, and that this report (dated December 6, 2013) had been submitted to PDS management and County Executive for their review.

5. Upon conclusion of the staff overview on the open space current use program, staff then made an approximately 45 minute presentation going over each of the individual applications referenced in Master File OS2014-1, pausing to answer questions from commissioners. The single application for the classification of open space land was presented first, followed by the single application for farm and agricultural conservation land, and then a presentation on the three timber land applications. Staff noted that of the applications for timber land one was a “split jurisdiction”, noting that after the application was received portions of the land subject of application was annexed by the City of Ferndale. Staff suggested that commissioners wait to deliberate and make motions on each application until after staff presentation on individual applications.

6. Staff recommended approval on the application for Open Space Land (Hurlbut). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher which, pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System is consistent with a staff recommendation of approval. Staff recommended approval after scoring the application with a public benefit rating (PBR) of 92.75.

The Hurlbut proposal included public access to the rear of the lots under consideration from the access that is provided to Stimpson Reserve and Lake Geneva Preserve abutting their .044 (+/-) parcel acres. Proposed public access to the wooded and grassy area north of the subject acres could be used for a view point overlooking the lake, and for viewing birds and terrestrial species that frequent the site.

7. After deliberation, Planning Commissioners came to a consensus to recommend that the County Council approve the Hurlbut application in its entirety subject to staff’s recommended conditions.

8. Staff recommended approval on the single application for Farm and Agricultural Conservation Land (Hemnes). Staff recommendation of approval on this application was based on an assigned Public Benefit Rating (PBR) score of 45 points or higher, which pursuant to Whatcom County Open Space Policies and Criteria and Public Benefit Rating System is consistent with a staff recommendation of approval. Staff recommended approval after scoring the application with a public benefit rating (PBR) of 57.12.

9. The Hemnes property was purchased in 2014. The land was (and at time of review was still) classified as Farm and Agricultural Land. Staff
explained that current classification that applies to the land is different than the farm and agricultural conservation land classification being sought in that farm and agricultural land requires the owners to show income from commercial agriculture, but farm and agricultural conservation land does not. At the time of sale, it was discovered by the Assessor that the previous owners could not demonstrate income from commercial agriculture; therefore the Assessor signed off on the Notice of Continuance pending reclassification to a different classification authorized under the Open Space Taxation Act, by the new owners, Lucas and Amy Hemnes.

10. The Hemnes family manages a herd of approximately 55 head of beef cattle and uses the 3.81 acres to pasture about 4 head of beef (yearlings) as part of the larger operation. The long term plan is to continue to raise beef on the subject parcel, rotating stock during the winter months over to a barn and additional rented agricultural land on the Siper Road. Beef from the Hemnes herd is processed at a facility in Bow, Washington, and is sold locally to Boundary Bay Brewery, located in the city of Bellingham.

11. A proposed public access statement was discussed verbally between the applicant and staff, and then later confirmed with a written public access statement and proposed rules of public conduct. The proposal was that the applicants would give farm tours to prospective customers, and would be willing to provide farm educational opportunities to youth groups such as 4-H by appointment. Staff noted, there is ample off-street parking, and an open space sign could be posted at the corner of Sand Road and Sundown View Lane.

12. Staff explained to the Planning Commission that the Open Space Taxation Act authorizes counties to approve Open Space Land and Farm and Agricultural Conservation Land applications subject to specific conditions. Given that the owners expressed a desire to continue a long term agricultural operation on the subject property; they may at some point in the next 3-5 years be able to qualify for the Farm and Agricultural Land classification administered by the Assessor. To qualify for that classification, and although subject to change, current income requirements (revenue from commercial agriculture) would be $1,500.00 per year for three out of the five years preceding the date of application. The County Council could approve this application subject to a farm plan that outlines a program for meeting income requirements associated with the Farm and Agricultural Land classification, and eventual reclassification back to the Farm and Agricultural Land classification within a certain time frame.

Staff provided the Planning Commission with a Property Tax Advisory from the Department of Revenue which states: "...additional eligibility requirements for the open space and timber classifications must not conflict with state law and not arbitrarily or capriciously restrict access to
either classification."

13. After deliberation, and after considering staff input, Planning Commissioners came to a consensus that they would be willing to recommend that the County Council approve the Hemnes application subject to a condition requiring the applicants within four years of approval for Farm and Agricultural Conservation Land as defined in RCW 84.34.020(1)(c)(8)(a) to apply for and be approved for the classification of Farm and Agricultural land as defined in RCW 84.34.020(2)(c). Subject to this proposed condition, the Planning Commission voted to recommend that the County Council approve the Hemnes application in its entirety.

14. Staff discussed the special condition in the above finding (No. 13) with PDS County attorney and with Department of Revenue staff. After these discussions, staff concluded that it might be more consistent with the purpose of classification if the condition was worded differently, as follows: "Within four years of application approval, the applicants must apply for and demonstrate that they meet income requirements established in the Open Space Taxation Act for approval of the Farm and Agricultural Land classification as it is defined in RCW 84.34.020(2)(c)."

Staff's conclusion was based on a reconsideration of the purpose of the reclassification and the definition of the classification being sought, i.e. land previously classified as farm and agricultural land that is no longer able to meet income requirements associated with qualification as farm and agricultural land. If a condition required an approval by independent entity, if for some reason it was not approved, even though the applicants might show income to qualify for classification as farm and agricultural land, and even though they might apply, the act of approval would be outside of the applicant's control, and a disapproval might not be consistent with state law or the purpose of classification.

In addition, staff noted that it would be in the interest of the applicant to return to farm and agricultural land, because the reduction in assessed value would likely to be more than in the farm and agricultural conservation land classification.

15. Staff presented information that described the estimated resulting tax shift that would occur if the Hurlbut and Hemnes' applications were to be approved. Using figures provided by the County Assessor's Office, it was noted that the assessed property value reduction would result in an estimated tax shift of approximately $170.10 (Hurlbut) and $705.99 (Hemnes) to other tax payers per year if the applications were to be approved.

Staff was not able to provide information to the Planning Commission about what how the overall tax shift would affect individual property owners because it would be a very difficult calculation to perform. This is because not all property owners located in a geographic tax code area are subject to the same set of taxing district levies, and therefore it would not be as simple as dividing the number of parcels by the monetary shift in taxes to obtain an estimated tax shift on a per parcel basis.
16. After staff presentations and Planning Commission deliberation and votes on the Open Space Land and Farm and Agricultural Conservation Land applications, staff presented the timber land applications.

17. Staff explained to the Planning Commission that staff recommendations of approval on timber land applications are based on whether the application meets the definition of timber land as defined in RCW 84.34.020(3), and whether the Timber Management Plan submitted on file as part of the application is consistent with RCW 84.34.041 which outlines the elements of a timber management plan. Based on staff review and site inspections, staff recommended approval on all three of the timber land applications. Staff recommendations of approval were based on review of the timber management plans submitted, site inspections to verify that forest conditions matched those identified in the Plans, and for overall conformance with state law.

18. Prior to voting on timber land applications, one of the Planning Commissioners asked for information about the loss of revenue or shift in taxes that would result from approving an application for timber land, and asked why this information was not provided on the timber land applications. Staff indicated that this information was not provided because it is not one of the criteria considered for approval or disapproval. The commissioner asked if staff would be prohibited from providing this information, and staff indicated that while there is no prohibition on the provision of this information, adding that it could be provided in the future, it can’t be the basis on which a decision to approve or not approve is based, because this information is not a criteria for approval. The commissioner indicated that he would vote to deny all of the timber land applications because information on loss of revenue or shift in taxes was not provided.

19. Whatcom County Planning Commissioners considered staff findings and recommendations on the E. Bailey and Bailey Trust application, and staff suggested that two separate votes be taken on the E. Bailey and Bailey Trust application respective of the jurisdiction in which the subject property was located.

20. After deliberations, the Planning Commission voted to recommend that the County Council approve the portion of the E. Bailey and Bailey Trust timber land application in the jurisdiction of the City.

21. The Planning Commission voted to recommend that the County Council approve the E. Bailey and Bailey Trust timber land application unincorporated Whatcom County.

22. Whatcom County Planning Commissioners considered staff findings and recommendations on the Engelund application for timber land and voted to recommend approval to the County Council.

23. Whatcom County Planning Commissioners considered staff findings and recommendations on the Sunset SW LLC application and voted to recommended denial. During Planning Commissioner review, it was noted that the land that is subject of application is located on the shoreline of
Lake Whatcom, and is designated Rural under the Whatcom County Shoreline Management Program (SMP).

24. Staff acknowledged that the land that was subject to application was located within the jurisdiction of the SMP, and indicated that staff had researched the matter to determine whether or not the land subject to the application could be harvested. Staff stated that the land subject of application contained five or more acres devoted primarily to the growth and harvest of timber for commercial purposes (5.63 acres); that the applicant had retained the services of a professional forester who prepared a Timber Management Plan that contained all of the elements of a Timber Management Plan, and according to PDS Natural Resource staff the owner could harvest of timber in the Rural SMP designation after a Shoreline Substantial Development Permit was applied for and approved, subject to specific conditions to protect the lake and its habitat functions.

25. The Planning Commission vote on a motion to recommend that the County Council approve the Sunset SW LLC application for Timber Land was 3 in favor and 3 against, which is a tie, indicating that the motion failed to recommend that the County Council approve the subject application.

26. On July 8, 2014, Planning & Development Services staff prepared a report on behalf of the Planning Commission containing Facts, Findings, and Reasons for Action on all applications referenced under OS2014-1, and this report was reviewed for accuracy and signed by the Planning Commission Chair and Planning Commissioner, Secretary.

27. On July 8, 2014, Planning & Development Services prepared an Agenda Bill, Draft Resolution and attachments including all relevant information on file in regards to the subject applications referenced under OS2014-1, and forwarded this to the Whatcom County Council. The agenda bill requested that the draft resolution be introduced at the regularly scheduled Council Meeting to be held on July 22, 2014, and also included a request for a public hearing to be scheduled on August 5, 2014.

28. On July 22, 2014, a draft resolution was introduced.

29. A public hearing was scheduled to take place before the County Council at their regularly scheduled evening meeting, held on August 5, 2014. Notice of this public hearing was published in the Bellingham Herald prior to the hearing. In addition, Applicants were sent a letter by US Mail stating that a public hearing would be held on their individual applications on August 5, 2014.

30. On August 5, 2014, the Whatcom County Council held a public hearing on applications to classify or reclassify lands that are located within the unincorporated areas of Whatcom County as referenced under OS2014-1, and after considering all relevant information, and after considering input from the public, they made a final decision on whether to approve in whole or in part or deny applications to classify or reclassify lands located within the unincorporated areas of Whatcom County as referenced under
OS2014-1.

NOW, THEREFORE, BE IT RESOLVED BY THE WHATCOM COUNTY COUNCIL:

1. Recommendations on applications for open space current use assessment referenced in Master File Number OS2014-1 listed below are hereby approved subject to conditions and applicable scores as noted herein:

**Open Space Land (OSL)**

**OSP2014-00002 – Hurlbut**
New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)
**PBR 92.75**
**ESTIMATED SHIFT IN TAXES IF APPROVED:** $170.10

**Whatcom County Planning Commission Recommendation:**

**Approval:** subject to the following conditions:

1. Public Access as described in the Application Narrative
2. Small Open Space Sign posted on Lot # 19
3. Hold Harmless Agreement

**Farm & Agricultural Conservation Land (OSFACL)**

**OSP2014-00005 – Hemnes**
Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)
GEO ID: 390429 041191 0000: (PID: 107711)
Total Parcel acres = 4.81; OSFACL acres= 3.81; Homesite acres = 1.00
**PBR 57.12**
**ESTIMATED SHIFT IN TAXES IF APPROVED:** $705.99

**Whatcom County Planning Commission Recommendation:**

**Approval:** subject to the following conditions:

2. Open Space Sign posted at corner of Sundown Lane and Sand Rd.
3. Within four years of date of approval for reclassification to Farm and Agricultural Conservation Land the applicant must apply for and be
approved for reclassification back to the Farm and Agricultural Land as defined in RCW 84.34.020(2)(c).
4. Hold Harmless Agreement

**Timber Land (OSTL)**

**OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust**

*(portion of the application to reclassify lands that are located within unincorporated Whatcom County)*

Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 235213 0000 (PID: 90564): Application OSTL acres = 4.57

E. Bailey
GEO ID: 390208 185232 0000 (PID: 90457): Application OSTL acres = 4.58

Total Application OSTL acres in the unincorporated Whatcom County = 9.15

**Whatcom County Planning Commission Recommendation:**

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

**OSP2014-00003 – Engelund**

New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres= 8.5; Homsite acres = 2.06

**Whatcom County Planning Commission Recommendation:**

Approval: subject to the following conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of forest products as defined in Title 76 RCW
2. Approved Timber Management Plan pursuant to RCW 84.34.041
3. Hold Harmless Agreement

**OSP2014-00004 – Sunset SW LLC**

New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres currently classified as OSTL
GEO ID: 380432 0255554 0000 (PID: 83946); 1.72 acres of which 1.36 is currently classified as OSTL (according to Assessor's records)
Application OSTL acres = 0.28 (0.28 acres is according to survey. Survey shows an apparent discrepancy between Assessor's records which indicate 0.36 acres)

NOTE: If approved, the additional 0.28 acres in this application it would bring the total OSTL acres covered under the application to 5.63 (+/-) acres, all subject to a new taxation agreement.

Whatcom County Planning Commission Recommendation:

Denial: Based on a finding expressed by dissenting commissioners that it would not be in the best interests of the public to harvest timber on the shore of Lake Whatcom.

2. The Whatcom County Council directs the Assessor to place the above referenced parcels into the appropriate open space current use classification.

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

APPROVED this _________ day of ______________________, 2013

WHATCOM COUNTY COUNCIL

ATTEST:

Dana Brown-Davis
Clerk of the Council

Carl Weimer
Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
Call To Order: The meeting was called to order, by Whatcom County Planning Commission Chair, David Onkels, in the Northwest Annex Conference Room at 6:30 p.m.

Roll Call
Present: Gary Honcoop, David Onkels, Mary Beth Teigrob, Walter Haugen, Natalie McClendon, David Hunter
Absent: Ben Elenbaas, Jerry Vekved, Ken Bell

Staff Present: Mark Personius, Erin Osborn, Becky Boxx

Department Update

Mark updated the commission on the following:
• Items before the County Council.
• Upcoming commission schedule.

Open Session for Public Comment

There was no public comment.

Commissioner Comments

Commissioner Honcoop commented on his visit on the USS Nimitz.

Approval of Minutes

May 22, 2014: Approval of the minutes was put on hold until the next meeting due to lack of members needed for approval.

Open Space Applications

Erin Osborn presented an overview of the Open Space Program.

The open space current use program is a property tax reduction program. In the 1960’s the state constitution was amended to enact the program. It authorizes three classifications and one sub-classification. Open Space Land is about conservation of a broad scope of resources. It has a sub-classification, Farm and Agricultural Conservation Land. There is also Timber Land, and Farm and Agricultural Land.

State law provides that applications for the Open Space Land and the Farm and Agricultural Conservation Land are processed in same manner as an amendment to the Comprehensive Plan. Therefore they come before the Planning Commission. When the Planning Commission reviews the applications they are to consider the overall benefit of preserving the land relative to the monetary shift in taxes. The higher the score on the application the greater the tax shift. Regarding Timber Land there is nothing in state law that assigns a role to the Planning Commission. However, until 1995 they were reviewed with the Public Benefit Rating System. After ordinance 1995-040 Timber Land was removed from Planning Commission review, however another ordinance that is codified in WCC 2.28 states that they are still reviewed by the Planning Commission, and so
Regular Meeting

therefore they are. The County Council has asked staff to put together an analysis of the program which staff has done but Council has not reviewed it yet. The Timber Land classification requires at least five acres be devoted to the growth and harvest of timber for commercial purposes. A Timber Management Plan is required for approval. Recently the legislature amended the Designated Forest Land Program changing the minimum allowed to five acres. This may result in less Timber Land applications.

The commission reviewed the applications.

Open Space Land – Hurlbut

This is approximately .48 acres. The zoning is R5A. It is located above Lake Whatcom Boulevard. It is very steep. The owners purchased the land for the sole purpose of conservation and to protect the hillside from further erosion. It has been prone to mudslides. A slide in 1992 destroyed the owner’s house. Two of the lots are subject to a restrictive covenant prohibiting development until 2027. There is public access to the Stimson Reserve property. The application was given a score of 92.75 with a recommendation of approval.

Farm & Agricultural Conservation Land – Hemnes

This land used to be owned and farmed by some dairy farmers in the area. The property was sold and short platted. It is a 4.81 acre parcel with one acre for the homesite. The previous owners (who sold to the Hemnes family) could not continue to keep the property in Farm and Agricultural Land because they couldn’t demonstrate income requirements so they applied for the conservation program. The 3.81 is used to raise beef cattle. The application was given a score of 57.12 with a recommendation of approval. The score is somewhat low because of the small size of the property. For public access, the owners are offering to engage with youth or agriculture groups to teach sustainable beef farming.

Open Space Timber Land – Bailey Trust

Shortly after this application came in in 2010 the City of Ferndale annexed the property east of the freeway. Because of joint granting authority the application was put on hold. All of the property is under the Designated Forest Land Program which at the time of application required a 20 acre minimum. Also the property ownership names were changed for estate planning purposes. This disqualified them from the Designated Forest Land Program because the property was not in one ownership. In 2011 the statute changed the term contiguous to mean land in same ownership (one family). The application included an excellent timber management plan. Reforestation will need to be done if approved. There are 9.51 acres in the county and 21.52 acres in the City of Ferndale. Staff recommends approval.

Open Space Timber Land – Engelund

This parcel is heavily forested with an excellent Timber Management Plan. It is 10.56 acres. They are asking to classify approximately 8.5 acres. The zoning is R10A. Staff recommends approval.
Open Space Timber Land – Sunset SW LLC
This property is on Lake Whatcom and is .28 acres. The acreage to the north is already classified as Timber Land. This piece of land appears to have been inadvertently left out when the other acreage was classified, but the record is not clear on this. The property is subject to a Rural Shoreline Management Program designation, and this designations allows timber harvest subject to issuance of a shoreline substantial development permit and conditions to protect the shoreline.

Commissioner Haugen noted there is no mention of the tax shift dollar value.

Ms. Osborn stated there are no laws, codes, etc. that requires consideration of the tax shift when approving a Timber Land application. The value of timber land is based on soil classification and operability.

Commissioner Haugen stated that if the commission is asked to make a decision all the information should be given otherwise the commission is in limbo. Is staff prohibited from giving the commission that information?

Ms. Osborn stated they are not prohibited.

Commissioner Haugen stated he wanted it.

Commissioner Honcoop stated there has to be findings to support their decisions otherwise they are considered arbitrary and capricious.

Commissioner Haugen did not agree.

Commissioner Teigrob did not see how it was possible to harvest trees there without impacting the lake.

Commissioner Honcoop said they could look at the operability of harvest there which is one of the conditions they can review.

Ms. Osborn stated the commission could put conditions on the harvest.

Commissioner McClendon asked why this application is for timber not open space land.

Ms. Osborn stated the parcel across the road is classified as Timber Land. They are applying for Timber Land because they want the best possible tax reduction and the same tax classification as the other parcel they plan to harvest in the future.

Commissioner McClendon asked if it is very hard to classify as operable does that lower the value?

Ms. Osborn stated it does.
Commissioner Honcoop stated it appears some of the trees are in the public right-of-way which can’t be harvested.

Commissioner Teigrob asked how many trees are in that small area.

Ms. Osborn stated it is considered fully stocked by the plan. In order to be fully stocked there has to be 100 trees per acre so there would have to be approximately 25 trees on the lot.

Commissioner Haugen asked the applicant’s representative how many trees there are.

Jesse Stoner stated he did not know how many trees are there. None of them are in the water or the county right-of-way.

Commissioner Honcoop asked if the surveyed area includes the shore area outside the water.

Mr. Stoner stated yes.

The commission acted on the applications as follows:

Open Space Land – Hurlbut

Commissioner Honcoop moved to recommend approval. Commissioner McClendon seconded. The motion carried.

Farm & Agricultural Conservation Land – Hemnes

Commissioner Hunter moved to recommend approval. Commissioner Haugen seconded.

Commissioner Honcoop asked about the sale of the property. Did the new owners sign a continuance to stay in open space?

Ms. Osborn stated the previous owners did not maintain the finance requirements to stay in open space so the Hemnes continued it pending reclassification. If they don’t get approved they have to pay back taxes.

Commissioner Honcoop asked where the public benefit is. What is there to ensure they will continue to use it as outlined?

Ms. Osborn stated they can add conditions.

Commissioner Honcoop asked who would enforce those conditions.

There was no response to this question.
Regular Meeting

Commissioner Teigrob stated that being in Open Space Agricultural Conservation versus Open Space Farm and Agriculture leaves no incentive to continue to farm because the monetary requirements go away.

Ms. Osborn stated that this issue has been a point of discussion for some time regarding this classification. The commission can assign conditions if they want.

Commissioner Hunter stated he sees no benefit to the county if this is put into Open Space Farm and Agricultural Conservation because he doesn’t believe it will change the use of the land.

Commissioner Teigrob made a friendly amendment requiring the applicant to apply and be approved Open Space Farm and Agricultural Land within four years. Commission McClendon seconded. The amendment carried.

The vote on the main motion to recommend approval carried.

Open Space Timber Land – Bailey Trust

Commissioner Teigrob moved to recommend approval for the parcel within the City of Ferndale. Commissioner Hunter seconded.

Commissioner Haugen stated the tax shift is not known. As such he has no choice but to vote no on the Timber Land applications. He has an issue with the protocol and procedure.

The vote on the motion to recommend approval carried.

Commission Honcoop moved to recommend approval for the parcel within the county. Commissioner McClendon seconded. The motion carried.

Open Space Timber Land – Engelund

Commissioner Honcoop moved to recommend approval. Commissioner Teigrob seconded. The motion carried.

Open Space Timber Land – Sunset SW LLC

Commissioner Teigrob moved to recommend approval. Commissioner Honcoop seconded.

Commission Onkels asked Mr. Stoner the reason for the application.

Mr. Stoner stated when the application was originally done, many years ago, the owner thought this parcel was included. This application takes care of that oversight. The timber management plan was actually written including this property.

Commissioner Hunter asked if the property has been harvested in the last 20 years.
Regular Meeting

1 Mr. Stoner stated it has not.
2 Commissioner Onkels stated the typical harvest cycle is 70 years.
3 Ms. Osborn stated that conifer species are generally a 50 year crop.
4 Commissioner Hunter asked Ms. Osborn if this parcel is in fact harvestable.
5 Ms. Osborn stated yes it is based on her research.
6
7 **The vote on the motion to recommend approval failed.**
8
9 The meeting was adjourned at 8:50 p.m.
10
11 Minutes prepared by B. Boxx.
12
13
14 WHATCOM COUNTY PLANNING COMMISSION ATTEST:
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21

22 David Onkels, Chair                                Becky Boxx, Secretary
BACKGROUND

INFORMATION ON

FILE

IN THE

COUNCIL OFFICE
MEMORANDUM

TO: Honorable Members of the Whatcom County Planning Commission

THROUGH: Mark Personius, Long Range Planning Division Manager

FROM: Erin Osborn, Planner

DATE: June 17, 2014

SUBJECT: 2014 Open Space Current Use Applications

Attached is a packet summarizing staff review and recommendations on five applications for open space current use taxation this year.

Staff will present the report at your upcoming June 26th meeting, and following discussion, ask for your recommendations on whether or not each application should be approved (in whole or in part) or disapproved. Staff will forward your recommendations on to the County Council who will make a final decision on the applications after holding a public hearing.

The staff report provides a summary of the applications, and also contains staff recommendations on whether they should be approved in whole or in part or denied respective of their conformance with specific evaluation and review criteria. Application summary, staff findings and recommendations are found on Pages 2-8 of the report, with background information on the Open Space Current Use Program presented on Pages 8-15. There are also a number of attachments that provide additional information about the individual applications, and the County’s property tax reduction programs.

I look forward to presenting my report at your June 26th meeting.

Please contact me if you have any questions.

Thank you.
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

STAFF RECOMMENDATIONS TO THE WHATCOM COUNTY PLANNING COMMISSION ON FIVE APPLICATIONS FOR CLASSIFICATION OR RECLASSIFICATION AS OPEN SPACE LAND, OR FARM & AGRICULTURAL CONSERVATION LAND OR TIMBER LAND AS AUTHORIZED UNDER CHAPTER 84.34 RCW

MASTER FILE NUMBER OS2014-1

Introduction:

This report summarizes staff findings and recommendations on a total of five applications for classification or reclassification as Open Space Land, Farm and Agricultural Conservation Land, and Timber Land as authorized under the Open Space Taxation Act, Chapter 84.34 RCW.

This report is prepared for the June 26, 2014 Whatcom County Planning Commission meeting where Planning Commissioners will deliberate on the subject applications respective of whether they should be approved in whole or in part, or denied. At the conclusion of the Planning Commission work session, staff will forward recommendations made by the Planning Commission to the Whatcom County Council for their review in making a final decision on each application.

The report is composed of five main parts:

1. Summary of five applications to classify or recategorize property pursuant to applicable state and local regulations;

2. Application review, staff findings, and staff recommendations;

3. Background information on the Open Space Taxation Act;

4. Staff, Planning Commission, and County Council Roles in application review, approval or denial;

5. Discussion outlining the evaluation criteria established for review of applications for Open Space Land, Farm & Agricultural Conservation Land, and Timber Land.

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I. **Application Summary**

**Open Space Land (OSL)**

**OSP2014-00002 – Hurlbut**

New application to classify property as Open Space Land  
GEO ID: 380335 523242 0000: (PID: 82464)  
GEO ID: 380335 525241 0000: (PID: 82465)  
GEO ID: 380335 538230 0000: (PID: 82477)  
Total Parcel acres = 0.44 (+/-); OSL acres = 0.44 (+/-)  
**PBR 92.75**  
**ESTIMATED SHIFT IN TAXES IF APPROVED:** **$170.10**

**Farm & Agricultural Conservation Land (OSFACL)**

**OSP2014-00005 – Hemnes**

Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)  
GEO ID: 390429 041191 0000: (PID: 107711)  
Total Parcel acres = 4.81; OSFACL acres = 3.81; Homesite acres = 1.00  
**PBR 57.12**  
**ESTIMATED SHIFT IN TAXES IF APPROVED:** **$705.99**

**Timber Land (OSTL)**

**OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust**

Application to reclassify as Timber Land from Designated Forest Land  
Loren H. Bailey SR Credit Shelter Trust  
GEO ID: 390208 060364 0000 (PID: 90425): Parcel/Application acres = 5.06  
GEO ID: 390208 105297 0000 (PID: 90440): Parcel/Application acres = 5.06  
GEO ID: 390208 124252 0000 (PID: 90445): Parcel/Application acres = 1.28  
GEO ID: 390208 235213 0000 (PID: 90564): Parcel/Application acres = 4.57  
E. Bailey  
GEO ID: 390208 022379 0000 (PID: 90406): Parcel/Application acres = 5.06  
GEO ID: 390208 087338 0000 (PID: 90433): Parcel/Application acres = 5.06  
GEO ID: 390208 185232 0000 (PID: 90457): Parcel/Application acres = 4.58  
Total Parcel Acres in Unincorporated County = 9.15  
Total Parcel Acres in City = 21.52  
Timber Management Plan – Staff Approval  
Note: Parcels in italicized text are located within unincorporated Whatcom County. Parcels in regular text are located within City of Ferndale
**OSP2014-00003 – Engelund**

New application to classify property as Timber Land  
GEO ID: 400101 259478 0000 (PID: 112929)  
Parcel acres = 10.56; OSTL acres= 8.5; Homesite acres = 2.06  
Timber Management Plan – Staff Approval

**OSP2014-00004 – Sunset SW LLC**

New application to classify property as Timber Land  
GEO ID: 380429 020020 0000 (PID: 83486): Parcel acres = 3.91 acres currently classified as OSTL  
GEO ID: 380432 0255554 0000 (PID: 83946); 1.72 acres of which 1.36 is currently classified as OSTL (according to Assessor’s records)  
Total Application acres =0.28 (Note: 0.28 acres is according to survey. Survey shows an apparent discrepancy between Assessor’s records which indicate 0.36 acres)  
NOTE: If approved, the additional 0.28 acres in this application would bring the total acres covered under the application to 5.63 (+/-) acres subject to a new taxation agreement  
Timber Management Plan – Staff Approval

II. Application Review & Staff Findings

Staff findings referenced under Master File Number OS2014-1 are listed in summary below.

All applications have been reviewed by staff, and have received a site inspection. Attached for reference at the end of this report are site evaluation worksheets, maps, and other supporting documents. A power point slide show of each property along with staff narrative will be presented at the June 26, 2014 Planning Commission Work Session.

A. Open Space Land (OSL) & Farm & Agricultural Conservation Land (OSFACL)

Applications for Open Space Land and Farm & Agricultural Conservation Land are evaluated by staff in accordance with Whatcom County Open Space Policy and Criteria and Public Benefit Rating System (1995), often referred to as the Whatcom County PBRS. Ratings are computed with a formula developed by the County Assessor, resulting in an overall score that is called a Public Benefit Rating (PBR). Applications must receive a Public Benefit Rating of at least 45 points for a **staff recommendation of approval**.
Open Space Land (OSL)

OSP2014-00002 – Hurlbut

New application to classify property as Open Space Land
GEO ID: 380335 523242 0000: (PID: 82464)
GEO ID: 380335 525241 0000: (PID: 82465)
GEO ID: 380335 538230 0000: (PID: 82477)
Total Parcel acres = 0.44 (+/-); OSL acres= 0.44 (+/-)

PBR 92.75
ESTIMATED SHIFT IN TAXES IF APPROVED: $170.00

Discussion: On February 13, 2013, Planning & Development Services Department received an application from property owners Max K. and Hueih-Hueih Hurlbut to classify approximately 0.44 acres currently assessed at true and fair value (fair market value) to Open Space Land (OSL).

The Hurlbut application consisting of Lots 18, 19, 22, and 23 of the Amended Plat of Geneva on Lake Whatcom are subject to a Rural designation in the Comprehensive Plan, and are subject to zoning regulations located in Title 20, Chapter 20.36 – Rural District, with a density of one dwelling unit per 5 acres (R5A). The site is also subject to watershed regulations in WCC Chapter 20.51 – Lake Whatcom Overlay District. The property is located at 2700 Lake Whatcom Shore, near Strawberry Point on the Southern shore of Lake Whatcom. The property is accessible by automobile directly off of Lake Whatcom Shore.

The proposal narrative submitted with the application indicates that the property is steep and the area is prone to mudslides. Mudslides originating from above the existing Hurlbut residence occurred in 1982, 1998, and 2000. In 1982 a mudslide completely destroyed the Hurlbut residence, which has since been re-built on the same site. Mr. & Mrs. Hurlbut purchased the property for the specific purpose of conservation. A restrictive covenant has been recorded on title of Lots 22 & 23, which prohibits construction of structures and land disturbing activity. This covenant is valid until February 1st, 2027.

The subject property is in an undeveloped natural state that offers food and protection to a variety of wildlife including birds and terrestrial mammals, and may help to stabilize soil and prevent future erosion. The site is in the Lake Whatcom Watershed.

The application proposal indicates that public access will be limited in that access may only be from the adjacent 80 acre Lake Geneva Preserve or the Stimpson Reserve, largely held in public ownership. The owners have indicated that they would rather not be subject to the requirement of having to post an “open space sign”.

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After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of **92.75** (for details, please see attached evaluation worksheet sheet). A Public Benefit Rating of at least 45 points must be attained to receive a *staff recommendation of approval*. The application has received a PBR greater than 45, and therefore staff recommends that the Hurlbut application for Open Space Land classification be approved subject to conditions listed below.

**Staff Recommendation:**

**Approval**, subject to the following attached special conditions:

1. Public Access to the Property from Lake Geneva Preserve or Stimpson Reserve as discussed in the Application Narrative on file.
2. Posted Open Space Sign on Lot 22
4. Hold Harmless Agreement

**Farm & Agricultural Conservation Land (OSFACL)**

**OSP2014-00005 – Hemnes**

New application to classify property as Open Space Land

Application to re-classify property from Farm & Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land)

GEO ID: 390429 041191 0000: (PID: 107711)

Total Parcel acres = 4.81; OSFACL acres= 3.81; Homsite acres = 1.00

**PBR 57.12**

**ESTIMATED SHIFT IN TAXES IF APPROVED: $705.99**

**Discussion**: On January 9, 2014, Planning & Development Services Department received an application from property owners Lucas and Amy Hemnes to reclassify 3.81 acres of their 4.81 acre parcel from Farm and Agricultural Land to Farm and Agricultural Conservation Land (OSFACL).

The Hemnes property is designated Rural in the Comprehensive Plan and is subject to zoning regulations located in Title 20, Chapter 20.36 – Rural District, with a density of one dwelling unit per 5 acres (R5A). The property is located at 2930 Sundown View Lane just off the Sand Road between Smith and Goshen. The property is accessible by automobile directly off Sundown View Lane.

Application materials submitted indicate that the property was purchased in 2014. The land was (and still is) classified as Farm and Agricultural Land. This is a different classification than the farm conservation classification that is applied for in that it requires the owners to show income from commercial agriculture. At the time of sale, it was discovered by the Assessor that the
previous owners could not demonstrate income from commercial agriculture; therefore the Assessor signed off on the Notice of Continuance pending reclassification by Lucas and Amy Hemnes.

The Hemnes family manages a herd of approximately 55 head of beef cattle and uses the 3.81 acres to pasture about 4 head of beef (yearlings) as part of the larger operation. The long term plan is to continue to raise beef on the subject parcel, rotating stock during the winter months over to a barn and additional rented agricultural land on the Siper Road. Beef from the Hemnes herd is processed at a facility in Bow, Washington, and is sold locally to Boundary Bay Brewery, located in the city of Bellingham.

Proposed public access was discussed verbally with staff. The proposal discussed was that the applicants would give farm tours to prospective customers, and would be willing to provide farm educational opportunities to youth groups such as 4-H by appointment. There is ample off street parking, and an open space sign could be posted at the corner of Sand Road and Sundown View Lane.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 57.12 (for details, please see attached evaluation worksheet sheet). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The application has received a PBR greater than 45, and therefore staff recommends that the Hemnes application for Farm and Agricultural Conservation Land classification be approved subject to conditions listed below.

Note: The County Council may approve applications for Open Space Land and Farm and Agricultural Conservation Land subject to specific conditions. Given that the owners wish to continue a long term agricultural operation on the subject property; they may at some point in the next 3-5 years be able to qualify for the Farm and Agricultural Land classification administered by the Assessor. To qualify for that classification, and although subject to change, current income requirements (revenue from commercial agriculture) would be $1,500.00 per year for three out of the five years preceding the date of application. The County Council could approve this application subject to a farm plan that outlines a program for meeting income requirements associated with the Farm and Agricultural Land classification, and eventual reclassification back to the Farm and Agricultural Land classification in a certain time frame. (See attached Property Tax Advisory from Department of Revenue).

Staff Recommendation:

Approval, subject to the following attached special conditions:
1. Public Access to allow Farm Education to Youth Groups (such as 4-H) by appointment.
2. Posted Open Space Sign on the property at the corner of Sand Road and Sundown View Lane
4. Hold Harmless Agreement

B. Timber Land (OST)

Timber Management Plans were submitted with the following applications to classify or re-classify as Timber Land. Following staff review of the timber management plan in accordance with approval criteria, and site inspection to ensure consistency between Plans and forest conditions, staff has made recommendations on each of the applications, listed below:

Timber Land (OSTL)

OSP2014-00001 – E. Bailey and Loren H. Bailey SR Credit Shelter Trust
Application to reclassify as Timber Land from Designated Forest Land
Loren H. Bailey SR Credit Shelter Trust
GEO ID: 390208 060364 0000 (PID: 90425): Parcel/Application acres = 5.06
GEO ID: 390208 105297 0000 (PID: 90440): Parcel/Application acres = 5.06
GEO ID: 390208 124252 0000 (PID: 90445): Parcel/Application acres = 1.28
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E. Bailey
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GEO ID: 390208 185232 0000 (PID: 90457): Parcel/Application acres = 4.58
Total Parcel Acres in Unincorporated County = 9.15
Total Parcel Acres in City = 21.52
Timber Management Plan – Staff Approval
Note: Parcels in italicized text are located within unincorporated Whatcom County. Parcels in regular text are located within City of Ferndale

Staff Recommendation:

Approval, subject to the following attached conditions:
1. No less than 5 acres devoted primarily to the growth and harvest of timber for commercial purposes.
2. Approved Timber Management Plan
3. Hold Harmless Agreement
OSP2014-00003 – Engelund
New application to classify property as Timber Land
GEO ID: 400101 259478 0000 (PID: 112929)
Parcel acres = 10.56; OSTL acres = 8.5; Homesite acres = 2.06
Timber Management Plan – Staff Approval

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of
   timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

OSP2014-00004 – Sunset SW LLC
New application to classify property as Timber Land
GEO ID: 380429 020020 0000 (PID: 83486); Parcel acres = 3.91 acres
currently classified as OSTL
GEO ID: 380432 025554 0000 (PID: 83946); 1.72 acres of which 1.36 is
currently classified as OSTL (according to Assessor’s records)
Total Application acres = 0.28 (Note: 0.28 acres is according to survey.
Survey shows an apparent discrepancy between Assessor’s records which
indicate 0.36 acres)
NOTE: If approved, the additional 0.28 acres in this application would bring
the total acres covered under the application to 5.63 (+/-) acres subject to a
new taxation agreement
Timber Management Plan – Staff Approval

Approval, subject to the following attached conditions:

1. No less than 5 acres devoted primarily to the growth and harvest of
   timber for commercial purposes
2. Approved Timber Management Plan
3. Hold Harmless Agreement

III. Recommendations

Staff requests that the Whatcom County Planning Commission consider staff
recommendations on applications referenced in Master File Number OS2014-1 as
discussed in this report, subject to conditions and applicable scores as noted
herein. Staff requests that the Whatcom County Planning Commission vote on
motions to approve in whole or in part or deny recommendations on individual
applications referenced under Master File Number OS2014-1.
IV. Background Information

The Open Space Taxation Act was passed by the Washington State legislature in 1970. In part, the law was created to provide a solution to and address a statewide concern that lands were being irrevocably converted to uses inconsistent with commercial agriculture, commercial forestry, and the conservation or preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, and recreational opportunities.

The Open Space Taxation Act codified in Chapter 84.34 of the Revised Code of Washington (84.34 RCW) gives counties the authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use i.e. fair market value. Lands classified as Open Space Land or Timber Land receive a greatly reduced assessed value; thereby providing a financial incentive to property owners to voluntarily conserve and preserve open space lands as defined by state law and further defined by county ordinance.

V. Classifications

There are three major classifications and one sub-classification authorized by the Open Space Taxation Act (Chapter 84.34 RCW):

1. Farm and Agricultural Land

2. Open Space Land
   - Farm and Agricultural Conservation Land

3. Timber Land

Pursuant to Chapter 84.34 RCW, the County Assessor’s Office is charged with administration of applications for the classification of Farm and Agricultural Land (No. 1 above). In accordance with Whatcom County Code, Title 3, Chapter 3.28, Planning & Development Services Department is charged with administration of Open Space Land, Farm and Agricultural Conservation Land & Timber Land applications. Staff from both PDS and the Assessor’s Office work closely and function as a team in monitoring and maintaining existing agreements on approved applications, as well as processing new applications. Applications and fees for Open Space Land, Farm and Agricultural Conservation Land and Timber Land are received by Planning & Development Services Department.

VI. Application Processing

A. Roles of Staff, Planning Commission, County Council & Assessor’s Office in Processing Applications for Open Space Current Use Taxation.

Applications that are the subject of this report are located within both unincorporated areas and incorporated areas. You will note that several parcels
in the joint E. Bailey and Bailey Trust Application are located within the City of Ferndale. Please note the County also receives and processes applications on lands within incorporated areas (cities), but in processing applications on lands within the cities, the granting authority is composed of members from both legislative bodies (both the county and the city).

When land that is the subject of application is located within an unincorporated area, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. Whatcom County Council is the granting authority, and pursuant to state law is charged with approving in whole or in part or denying each application.

When land that is the subject of application is located within an incorporated area, Whatcom County planning staff evaluates each application in accordance with the appropriate evaluation criteria, and based on application scores, makes recommendations to the Whatcom County Planning Commission on whether to approve or deny the applications, who in turn make recommendations to the County Council as to whether individual applications should be approved in whole or in part or denied. The Whatcom County Council will take its final action in approving in whole or in part or denying each application and the City of Ferndale is expected to take separate action to approve in whole or in part or deny each application. In order for an application that is located within an incorporated area to be approved, both the City and the County must take identical affirmative acts, (both must vote to approve).

Upon approval or denial, the County Assessor is notified, and makes adjustments on the basis of the approved current use value of the parcel.

As discussed earlier in this report, of the five subject applications there is one application to reclassify as Open Space Land, and one application to re-classify from Farm and Agricultural Land to Farm and Agricultural Conservation Land (a sub-classification of Open Space Land) and there are three applications to classify or reclassify property as Timber Land. Each classification has a distinct evaluation system. These evaluation systems are discussed in more detail in Section VII, with emphasis on clarification of the Planning Commission role with respect to reviewing and making recommendations on the different types of applications.

Applications for Open Space Land are evaluated with the Whatcom County Space Policy & Public Benefit Rating System, 1995 (PBRS). Timber Land applications are evaluated for conformance with RCW 84.34.020(3) – Definition of Timber Land, and RCW 84.34.041 which outlines the elements that constitute a Timber Management Plan. The PBRS is attached at the end of this report for
reference. The PBRS authorizes the Planning Commission to make recommendations to the County Council on applications for Open Space Land after considering the potential loss of revenue or shift in taxes that would occur as a result of approval relative to the public benefit of the amenity being conserved or preserved. This is an important distinction both in terms of defining the role of the Planning Commission in making recommendations to the County Council on whether to approve or deny applications for Open Space Land, and in understanding how the Public Benefit Rating System is applied.

It should be noted that the Planning Commission is not charged with considering of the loss of revenue or shift in taxes when making recommendations on applications for Timber Land as this only applies to applications for Open Space Land. More discussion on both of these evaluation systems and review criteria follows in Section VII (A & B).

B. Public Hearing

A public hearing is required for both Open Space Land, and Timber Land. In past years, public hearings have typically been held before the Planning Commission, but recently due to Planning Commission schedule devoted to Growth Management Compliance issues and other pressing matters of importance, a decision has been made at the staff level to change the venue of public hearings on Open Space applications from the Planning Commission to County Council to be held at their regularly scheduled evening meetings. Given that there is no statute, rule or local ordinance to specify where a public hearing on these applications is required to be held, staff has made arrangements with the Clerk of the Council, who schedules a public hearing on the subject applications. This change will give the County Council an opportunity to hear from staff, receive Planning Commission recommendations, and also hear from the Public as they deliberate on each application. The City of Ferndale is expected to hold a separate public hearing on applications to reclassify land to Timber Land that are located within their jurisdiction.

VII. Evaluation Systems

Open Space Land and its sub-classification Farm and Agricultural Conservation Land are evaluated with the Whatcom County Public Benefit Rating System (PBRS). The PBRS was originally approved by Council in 1987 by resolution and then later adopted by ordinance in 1995 (WC Ord. 95-040).

Applications for Open Space Timber Land are evaluated as modified in 1995 by WC Ord. 95-040 in conformance with RCW 84.34.041.

A. Whatcom County Open Space Policy & Public Benefit Rating System

The Public Benefit Rating System is an evaluation tool consisting of natural resource, recreation, historical site, and agricultural land priority resource
categories that correspond to a range of potential points that may be assigned relative to the amount of benefit that may be provided to the public as a result of approving each application. Generally, resources of importance identified in the PBRS include lands that preserve or conserve: farmland, streams or shorelines and associated buffers, critical areas, ground water protection areas, threatened or endangered wildlife and wildlife habitat, opportunities for public recreation, scenic views and vistas, historic property, and others.

Applications for Open Space Land are also evaluated on the quality of the applicant’s proposed public access. It is part of the Whatcom County Public Benefit Rating System Public Access Policy to require public access unless there is known habitat for an endangered species of wildlife, or where there is a known archeological site, or when the purpose of the open space is for wetland conservation.

In cases such as those listed above, when the County Council is acting as the granting authority, the requirement of public access may be waived at Council discretion. The Public Access Policy also contains a requirement that owners of property approved as Open Space Land post an Open Space sign that displays the rules of conduct for public access when public access is required.

Not all counties have adopted a Public Benefit Rating System. One reason a county may elect to adopt a PBRS is because decisions made by the granting authority (County Council), whether to approve or deny applications may only be appealed to Superior Court for arbitrary and capricious actions. The purpose of the Public Benefit Rating System is to assist the legislative authority in developing a measure of consistency in awarding reduction in assessed value according to a point system that corresponds to the relative importance of the resource being conserved.

Resources that have been identified as providing public benefit if conserved, and the corresponding range of potential points awarded for preserving or conserving those resources (i.e. the Public Benefit Rating System) were all adopted after consideration by the Planning Commission, and adopted by Council who heard from the public on this matter at a series of public hearings in the late 1980’s. The PBRS was originally approved by Council in 1987 by resolution and then later revised and adopted by ordinance in 1995 (WC Ord. 95-040). The last revision to the PBRS in 1995 was to remove Open Space Timber Land from the Public Benefit Rating System; it removed a requirement of public access on Timber Land applications, and adopted approval criteria based on state law (RCW 84.34.041); otherwise the PBRS has not changed in the last 25 years or so.

Even though the PBRS has a point system, at its core the PBRS is a qualitative as opposed to a quantitative system. Many observers, Planning
Commissioners, Council Members, and members of the public alike, have indicated the PBRS may appear to be too subjective. In response, staff has begun a practice to address this point. Whenever staff reviews and evaluates an application for Open Space Land or Farm & Agricultural Conservation Land, research is conducted and past reviews are considered, so that there is some measure of consistency in scores assigned. When staff reviews a new group of applications, similar applications that have been evaluated and approved in the past are also considered by comparison so that for any particular group of applications reviewed, comparable points are being assigned to similar priority resources or amenities in the current group of applications being processed.

Listed below is a brief summary of some of the resources that have been identified in the County’s Public Benefit Rating System.

- Conserve or enhance natural, cultural or scenic resources; or
- Protect streams, stream corridors, wetlands, natural shorelines and aquifers; or
- Protect soil resources and unique or critical wildlife and native plant habitat; or
- Promote conservation principles by example or by offering educational opportunities; or
- Enhance the value of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces; or
- Enhance recreational opportunities; or
- Preserve historic and archeology sites; or
- Affect any other factors relevant in weighing benefits to the general welfare of the public by preserving the current use of the property.

Once staff review has been completed and points are awarded, they are computed with a formula developed by the County Assessor resulting in a score that is called a Public Benefit Rating (PBR). A Public Benefit Rating of at least 45 points must be attained to receive a staff recommendation of approval. The PBR represents the degree of conformance with the county’s adopted Basic Value and Public Benefit Value criteria that are part of the PBRS. The Public Benefit Rating (PBR) is used as a factor applied to another computed value to arrive at a new current use per acre value for the property, once approved. Attached to this report for reference is a document that gives a hypothetical example describing this formula, and also contains a discussion of the shift or off-set in taxes resulting from approving an application for Open Space Land. In addition, in Section II (A), staff has also included “estimated tax shift if approved” at the Public Benefit Rating assigned by staff.

*Special Note: The attached document entitled “Hypothetical Example of Applied Public Benefit Rating” uses a consolidated levy rate of 10 dollars per every one thousand dollars of assessed value. The consolidated levy rate is
not always the same for every parcel, as it depends on which taxing districts apply to the land that is the subject of application. The staff report lists “hypothetical estimated tax shift, if approved” on the Hurlbut and Hemnes applications. This “estimated tax shift” is based on an applied consolidated levy rate per every thousand dollars of assessed (current use) property value. Although parcel valuation information is based on information provided by the Assessor’s Office, it is provided only as a reference to assist decision makers with an understanding of the potential tax shift; only the Assessor’s office can give exact information about the change in taxation as it applies to any given application approval.

Please find attached individual evaluation sheets that include a detailed description of the public benefit offered and assigned scores for each criterion, and a spreadsheet provided by the Assessor’s Office estimating the shift in taxes that would occur if the Hurlbut and Hemnes applications are approved.

B. Timber Management Plan Evaluation Criteria: Authority: RCW 84.34.041 & Whatcom County Ord. 95-040

Applications received for the classification of Timber Land must contain five or more acres (not including home site), primarily devoted to the growth and harvest of timber for commercial purposes. In order for consideration, the applicant must submit a timber management plan that meets requirements as outlined in RCW 84.34.041 as established in Whatcom County Ordinance 95-040.

Timber Management Plans are rated by staff on whether or not they address the elements that constitute a timber management plan. Site visits are conducted to assess whether forest conditions described in the plan are consistent with what is on the ground. Approval is recommended for those applications that meet the definition of timber land as defined in RCW 84.34.020(3), and after a timber management plan has been submitted that contains all of the elements that constitute a timber management plan as described in RCW 84.34.041.

Please find attached evaluation sheets for each individual application for the Timber Land classification:

Timber Management Plans are evaluated to determine whether or not the plan contains the following elements that constitute a timber management plan as outlined in the Open Space Taxation Act [(RCW 84.34.041 (1) (a-m))].

a. A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

b. The date or dates of acquisition of the land;
c. A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

d. Whether there is a forest management plan for the land;

e. If so, the nature and extent of implementation of the plan;

f. Whether the land is used for grazing;

g. Whether the land has been subdivided or a plat filed with respect to the land;

h. Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

i. Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

j. Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

k. A summary of the past experience and activity of the applicant in growing and harvesting timber;

l. A summary of current and continuing activity of the applicant in growing and harvesting timber;

m. A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

ATTACHMENTS
2013 Whatcom County Property Tax Reduction Program Map; 2014 Open Space Application Vicinity Map; Individual Application Maps; Individual Application Evaluation Forms; Estimate If-Approved Current Use Value (from County Assessor's Office); Hypothetical Example of Applied Public Benefit Rating; Whatcom County Open Space Policies & Public Benefit Rating System; 2014 Department of Revenue Open Space Taxation Act, Publication; Whatcom County Property Tax Reduction Program Publication (June 12, 2014)

Report Prepared for the Whatcom County Planning Commission by:

Erin Osborn, Planner
Open Space Land
Public Benefit Rating System-Evaluation Form

File # OSP2014-00002

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: Open Space Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max K. and Huei-Huei Hurlbut 2700 Lake Whatcom Shore</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2700 Lake Whatcom Shore</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City: Bellingham</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>State: WA  Zip: 98229</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Site Address: 2700 Lake Whatcom Shore</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Subarea: Lake Whatcom</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>380335 523242 0000</td>
</tr>
<tr>
<td>380335 525241 0000</td>
</tr>
<tr>
<td>380335 538230 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parcel Acre(s): 0.48</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Vacant – Forested</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Application Acre(s) 0.48</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Zoning Designation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural One Dwelling Unit per Five Acres (R5A)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Shorelines: 2008 SMP: Shoreline Residential</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Soil/Type Capabilities:</th>
</tr>
</thead>
<tbody>
<tr>
<td># 110 - Nati loam – 30-60% Slopes</td>
</tr>
<tr>
<td># 139 – Sehome loam – 2-8% Slopes</td>
</tr>
</tbody>
</table>

<p>| Comments: Property is adjacent to an area where mud slides occurred in 1982; 1998; 2000, completely destroying the applicants residence in 1982 (since re-built). Property owners land use objectives include conservation of soil resources, protection of property, and enhancement of Lake Whatcom water quality and ecosystems. |</p>
<table>
<thead>
<tr>
<th>Basic Value (BV)</th>
<th>Score</th>
<th>MAX</th>
<th>Public Benefit Value (PBV)</th>
<th>Score</th>
<th>MAX</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enhance Scenic Resources</td>
<td>10</td>
<td>10</td>
<td>Public Access</td>
<td>15%</td>
<td>40%</td>
</tr>
<tr>
<td>Conservation 0.48 acres forested hillside preserves Lake Whatcom hillside views enjoyed by residents, visitors, walkers, cyclists, motorists, swimmers, and water craft operators.</td>
<td></td>
<td></td>
<td>Small Posted Open Space Sign; public access is limited to the linkages from adjacent property. Access from Lake Whatcom Blvd. is not viable.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protect Streams/Shorelines</td>
<td>10</td>
<td>10</td>
<td>Water Resource Protection</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Lot 19 is subject to a restrictive covenants regarding sewer availability which may curtail residential development. Lots 22 &amp; 23 are subject to restrictive covenants that prohibit construction for a period of time (2027). The applicants wish to conserve the land in accordance with the open space land classification in perpetuity.</td>
<td></td>
<td></td>
<td>The purpose of conservation is to protect the geologically sensitive hillside from further erosion, and protect the health of Lake Whatcom.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Protect Soils/Wildlife</td>
<td>10</td>
<td>10</td>
<td>Wildlife Habitat</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Prohibition of construction, and preservation of natural vegetation, protects soil from erosion on up to 60% slopes, and provides wildlife habitat.</td>
<td></td>
<td></td>
<td>Retention of tree canopy and naturally vegetated understory preserves offers protection to a diversity of wildlife species and promotes ecosystem health.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Promote Conservation Principles:</td>
<td>10</td>
<td>10</td>
<td>Parcel Size</td>
<td>-10%</td>
<td>10%</td>
</tr>
<tr>
<td>A small posted Open Space sign will communicate that the site is under conservation and may increase awareness about conservation opportunities available under the County’s open space current program.</td>
<td></td>
<td></td>
<td>0.48 acres.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enhance Abutting Open Space</td>
<td>10</td>
<td>10</td>
<td>Abutting Open Space</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Lots 18,19, 22, &amp; 23 are located just south of and abutting the protected Stimpson Reserve &amp; Lake Geneva Preserve</td>
<td></td>
<td></td>
<td>5%</td>
<td>5%</td>
<td></td>
</tr>
<tr>
<td>Recreation Opportunities</td>
<td>3</td>
<td>10</td>
<td>Natural Areas</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Limited recreation: hiking, scenic views, nature observation, wildlife viewing may be accessible from Stimpson Reserve, and Lake Geneva Preserve.</td>
<td></td>
<td></td>
<td>The sloped hillside property is naturally vegetated. While subject to the open space classification, the land will remain in a naturally vegetated condition for the life of the agreement.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Historic / Archeological Significance</td>
<td>0</td>
<td>10</td>
<td>Financial Advantage</td>
<td>0%</td>
<td>40% (+/-)</td>
</tr>
<tr>
<td>None.</td>
<td></td>
<td></td>
<td>None.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Discretionary Value</td>
<td>20%</td>
<td>40% (+/-)</td>
<td>Classification as open space land will protect and enhance water quality and wildlife habitat in Lake Whatcom This is a prime example of public benefit.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total 53 70

Total 75% 100%

The Public Benefit Rating is calculated using the following formula:
Public Benefit Rating Formula- BV+(BV x PBV) = PBR 53 +(53X.95) = 92.75

OSP2014-00002

Public Benefit Rating (PBR) = 92.75

Must receive at least 45 points for approval
Open Space Land - New Application OSL

OSP2014-00002 – Max K. and Hueih Hueih Hurlbut
Geo ID: 380335 523242; 380335 525241; 380335 538230
Parcel acres = .45

Subject Parcels
Zoning & Comprehensive Plan

Open Space Land

OSP2014-00002 – Max K. and Hueih Hueih Hurlbut
Geo ID: 380335 523242; 380335 525241;
380335 538230
Parcel acres = .45
**Farm & Agricultural Conservation Land**  
*Public Benefit Rating System-Evaluation Form*

**File # OSP2014-00005**

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lucas &amp; Amy Hemnes</td>
<td>Farm &amp; Agriculture Conservation Land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Classification:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2930 Sundown View Lane</td>
<td>Farm &amp; Agriculture Conservation Land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>Status:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham</td>
<td>Transfer From Farm Agriculture Land</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State:</th>
<th>Zip:</th>
</tr>
</thead>
<tbody>
<tr>
<td>WA</td>
<td>98226</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2930 Sundown View Lane Off of Sand Road between Goshen and Smith</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subarea:</th>
<th>Assessor's Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>390429 041191 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comp Plan Designation:</th>
<th>Parcel Acre(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4.81</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture – Dairying</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Application Acre(s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.81</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zoning Designation:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural (R5A)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Shorelines:</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>

**Soil/Type Capabilities:**  
# 62 Hale Silt Loam - Drained, 0-2% Slopes

**Comments:** Classification will preserve agriculture protection overlay soils. These soils have been determined by Whatcom County, in consultation with the Natural Resource Conservation Service and local farmers, as being the best soils for farming.
<table>
<thead>
<tr>
<th>Basic Value (BV)</th>
<th>Score</th>
<th>MAX</th>
<th>Public Benefit Value (PBV)</th>
<th>Score</th>
<th>MAX</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Traditional or Potential Farmland:</strong> Property is utilized as part of an ongoing 55 head beef cattle business; owners provide Boundary Bay Brewery with local beef. Previous owners did not maintain income for OSAG, contiunue was granted pending reclassification.</td>
<td>15</td>
<td>15</td>
<td><strong>Public Access:</strong> Posted Open Space Sign; Public Access by Appointment; Ample Off Street Public Parking off of Sand Road.</td>
<td>30%</td>
<td>40%</td>
</tr>
<tr>
<td><strong>Soil Value:</strong> # 62 - Hale Silt Loam - Drained - 0-2% slopes. Designated as Agricultural Protection Overlay Soil.</td>
<td>15</td>
<td>15</td>
<td><strong>Water Resource Protection:</strong> Located in Moderate to High Critical Aquifer Recharge Area</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Comprehensive Plan Designation:</strong> Rural</td>
<td>0</td>
<td>5</td>
<td><strong>Wildlife Habitat:</strong> Vegetated pasture provides habitat for small mammals and birds.</td>
<td>10%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Promote Conservation Principles:</strong> Posted Open Space Sign will promote awareness of conservation opportunities available to the public. Will teach manure management and herd management/herd rotation.</td>
<td>5</td>
<td>5</td>
<td><strong>Parcel Size:</strong> 4.81 acres - Parcels less than 5 acres automatically receive a 40% decrease for this category.</td>
<td>-40%</td>
<td></td>
</tr>
<tr>
<td><strong>Enhance Abutting Open Space:</strong> Retains grass land/pasture, with manure management plan. Part of larger farm operation with 55 head of beef cattle</td>
<td>3</td>
<td>5</td>
<td><strong>Abutting Open Space:</strong> OSAG to the North OSAG to the West</td>
<td>2%</td>
<td>5%</td>
</tr>
<tr>
<td><strong>Recreation Opportunities:</strong> Agricultural education to local youth groups by appointment. Farm tours by appointment.</td>
<td>5</td>
<td>5</td>
<td><strong>Natural Areas:</strong> None.</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td><strong>Historic / Archeological Significance:</strong></td>
<td>0</td>
<td>5</td>
<td><strong>Financial Advantage:</strong></td>
<td>0%</td>
<td>40% (+/-)</td>
</tr>
<tr>
<td><strong>Enhance Scenic Resources:</strong> Helps preserve pastoral setting along Sand Road.</td>
<td>3</td>
<td>5</td>
<td><strong>Discretionary Value:</strong></td>
<td>0%</td>
<td>40% (+/-)</td>
</tr>
<tr>
<td><strong>Protect Streams/Shorelines:</strong> Grassy areas preserve hydrologic processes, help control stormwater run-off. Manure management plan, and herd management plan will help preserve water quality.</td>
<td>3</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Protect Soils/Wildlife:</strong> Preserves Hale Silt Loam for existing and future agriculture.</td>
<td>3</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>51</td>
<td>70</td>
<td><strong>The Public Benefit Rating is calculated using the following formula:</strong></td>
<td>12%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Public Benefit Rating Formula: BV + (BV x PBV) = PBR = 51 + (51 x 12) = 57.12

**OSP2014-00005** Public Benefit Rating (PBR) = 57.12

Application must receive at least 45 points for a staff recommendation of approval
Farm and Agriculture Conservation Land Transfer from ASAG to OSFACL

OSP2014-00005 – Lucas & Amy Hemnes
Geo ID: 390429 041191 – OSAG to OSFACL
Parcel acres = 4.81; Homosite acre = 1.0

Subject Parcel
Zoning & Comprehensive Plan

Farm and Agriculture Conservation Land
OSP2014-00005 – Lucas & Amy Hemnes
Geo ID: 390429 041191 – OSAG to OSFACL
Parcel Ac. = 4.81; Total App. Ac. - 3.81
# Open Space Timber Land
## Current Use Classification-Evaluation Form

**File # OSP2014-00001**

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: <strong>Timber Land</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Loren H. Bailey, SR. Credit Shelter Trust</td>
<td>Status: Transfer From Designated Forest Land</td>
</tr>
<tr>
<td>Elinor Bailey</td>
<td>Assessor’s Parcel No. (s):</td>
</tr>
<tr>
<td>Street Address:</td>
<td>390208 060364 0000 390208 022379 0000</td>
</tr>
<tr>
<td>6759 Enterprise Road</td>
<td>390208 105297 0000 390208 087338 0000</td>
</tr>
<tr>
<td>City: Ferndale</td>
<td>390208 124252 0000 390208 185232 0000</td>
</tr>
<tr>
<td>State: WA Zip: 98248</td>
<td>Site Address:</td>
</tr>
<tr>
<td>Bailey Trust (above)</td>
<td>390208 235213 0000</td>
</tr>
<tr>
<td>Elinor Bailey (above)</td>
<td>East of I-5</td>
</tr>
<tr>
<td></td>
<td>Subarea: NA</td>
</tr>
<tr>
<td></td>
<td>Comp Plan Designation:</td>
</tr>
<tr>
<td></td>
<td>Urban Growth Area Reserve</td>
</tr>
<tr>
<td></td>
<td>City of Ferndale</td>
</tr>
<tr>
<td></td>
<td>Historical Land Use:</td>
</tr>
<tr>
<td></td>
<td>Forested, Undeveloped</td>
</tr>
<tr>
<td></td>
<td>Note: City of Ferndale annexed parcels east of I-5 after application was received.</td>
</tr>
<tr>
<td></td>
<td>Parcel Acre(s):</td>
</tr>
<tr>
<td></td>
<td>Bailey Trust: 5.06; 5.06; 1.28; 4.57</td>
</tr>
<tr>
<td></td>
<td>E. Bailey: 5.06; 5.06; 4.58</td>
</tr>
<tr>
<td></td>
<td>Application Acre(s):</td>
</tr>
<tr>
<td></td>
<td>Parcels in County: 9.15 acres</td>
</tr>
<tr>
<td></td>
<td>Parcels in City of Ferndale: 21.52 acres</td>
</tr>
<tr>
<td></td>
<td>County Zoning Designation:</td>
</tr>
<tr>
<td></td>
<td>Rural One Dwelling Unit per 10 Acres (R10A)</td>
</tr>
<tr>
<td></td>
<td>City Zoning Designation:</td>
</tr>
<tr>
<td></td>
<td>Shorelines: N/A</td>
</tr>
</tbody>
</table>

**Predominant Soil/Type Capabilities:**

- #45 – Edmonds-Woodlyn loams, 0-2% Slopes, 50 year site index – Red Alder = 90
- #99 – Squalicum gravelly loam, - 15-30% Slopes, 50 year site index – Douglas fir = 112
- #100 – Lyden sandy loam, 0-3% Slopes, 50 year site index – Douglas fir = 112
- #165 – Tromp loam, 0-2% Slopes, 50 year site index – Douglas fir = 100

**Comments:** Generally productive Woodland soils. Lyden sandy loam and Tromp loam, relatively deep well drained; Edmonds-Woodlyn loams, are poorly drained, hydric soils. Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended.
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.
- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;
- The date or dates of acquisition of the land;
- A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;
- Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;
- Whether the land is used for grazing;
- Whether the land has been subdivided or a plat filed with respect to the land;
- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;
- Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;
- Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;
- A summary of the past experience and activity of the applicant in growing and harvesting timber;
- A summary of current and continuing activity of the applicant in growing and harvesting timber;
- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**OSP2014-00001 Staff Recommendation:** ✗ Approval   ☐ Denial
Timber Land - Transfer Application DFL to OSTL
OSP2014-00001 – Loren H. Bailey Sr. Credit Shelter Trust, Elinor I. Bailey
Geo ID: 390208 060364 - 5.06 Ac.  Geo ID: 390208 022379 - 5.06 Ac.
Geo ID: 390208 105297 - 5.06 Ac.  Geo ID: 390208 087338 - 5.06 Ac.
Geo ID: 390208 124252 - 1.28 Ac.  Geo ID: 390208 185232 - 4.58 Ac.
Total App. Acres - 15.97 ac.

[Diagram of land parcels labeled Ferndale and Brown]
Zoning & Comprehensive Plan
Timber Land - Transfer Application DFL to OSTL

OSP2014-00001 – Loren H. Bailey Sr. Credit Shelter Trust, Elinor I. Bailey
Geo ID: 390208 060364 – 5.06 Ac. Geo ID: 390208 022379 – 5.06 Ac.
Geo ID: 390208 105297 – 5.06 Ac. Geo ID: 390208 087338 – 5.06 Ac.
Total App. Acres - 15.97 ac.
## Open Space Timber Land
### Current Use Classification-Evaluation Form

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: Timber Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paul and April Engelund</td>
<td>Status: New Application</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor’s Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>9601 Stein Road</td>
<td>400101 259478 0000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Custer</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State: WA Zip: 98240</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site Address:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9601 Stein Road</td>
<td></td>
</tr>
</tbody>
</table>

| Subarea: NA                 |                             |

<table>
<thead>
<tr>
<th>Comp Plan Designation: Rural</th>
<th>Parcel Acre(s): 10.56 (+/-)</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
<th>Application Acre(s) 8.5 (+/-)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forested, Residential</td>
<td>Zoning Designation: Rural One Dwelling Unit per 10 Acres (R10A)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Predominant Soil/Type Capabilities:</th>
</tr>
</thead>
<tbody>
<tr>
<td># 93 – Labounty silt loam, 0-2% Slopes, 50 year site index – Red Alder = 90</td>
</tr>
<tr>
<td># 179 – Whatcom silt loam, 3-8% Slopes, 50 year site index – Douglas fir = 116</td>
</tr>
<tr>
<td># 180 – Whatcom silt loam, 8-15% Slopes, 50 year site index – Douglas fir = 116</td>
</tr>
</tbody>
</table>

| Shorelines: N/A              |                             |

| Comments: Productive Woodland soils. |
| Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended. |

**File # OSP2014-00003**
Timber Land – Evaluation Criteria
Timber Management Plan (RCW 84.34.041) (WC Ord. 1995-041)

File # OSP2014-00003

A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

☒ The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.

☒ A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

☒ The date or dates of acquisition of the land;

☒ A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

☒ Whether there is a forest management plan for the land; If so, the nature and extent of implementation of the plan;

☒ Whether the land is used for grazing;

☒ Whether the land has been subdivided or a plat filed with respect to the land;

☒ Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

☒ Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

☒ Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

☒ A summary of the past experience and activity of the applicant in growing and harvesting timber;

☒ A summary of current and continuing activity of the applicant in growing and harvesting timber;

☒ A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

OSP2014-00003  Staff Recommendation:  ☒ Approval  □ Denial
Timber Land - New Application
OSP2014-00003 – Paul & April Engelund
Geo ID: 400101 259478 – 10.56 Ac.
Total App. Acres - 8.5 ac.

☐ Subject Parcel
Zoning & Comprehensive Plan
Timber Land - New Application
OSP2014-00003 – Paul & April Engelund
Geo ID: 400101 259478 – 10.56 Ac.
Total App. Acres - 8.5 ac.
# Open Space Timber Land
## Current Use Classification-Evaluation Form

**File # OSP2014-00004**

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: <strong>Timber Land</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Sunset SW LLC</td>
<td>Status: New Application</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Assessor's Parcel No. (s):</th>
</tr>
</thead>
<tbody>
<tr>
<td>2920 Northshore Road</td>
<td>380432 025554 0000</td>
</tr>
<tr>
<td></td>
<td>380429 020020 0000</td>
</tr>
</tbody>
</table>

| City: Bellingham          | Parcel Acre(s): 5.63 (+/-)                               |
| State: WA Zip: 98226      |                                                          |

<table>
<thead>
<tr>
<th>Site Address:</th>
<th>Application Acre(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abutting 2920 Northshore Road to the East</td>
<td>0.28 (+/-) for a total of 5.63 (+/-) acres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subarea: Lake Whatcom</th>
<th>Zoning Designation:</th>
</tr>
</thead>
</table>

| Comp Plan Designation: Rural | Shorelines: Rural                                        |

<table>
<thead>
<tr>
<th>Predominant Soil/Type Capabilities:</th>
<th>Comments: Productive Woodland soils. Seedling mortality due to competing vegetation. Care should be taken to account for seasonal wetness during harvest and to avoid rutting from wheeled equipment. Low pressure ground equipment is recommended.</th>
</tr>
</thead>
<tbody>
<tr>
<td># 157 - Squalicum gravelly loam, - 15-30% Slopes, 50 year site index – Douglas fir = 132</td>
<td>NOTE: Rural Shoreline Permitted Uses are subject to WCC 23.30.074 (E) which provides for Agricultural and Forest Practices subject to WCC 23.90.11(c) Policies and Regulations, forest practices may require a Shoreline Substantial Development Permit.</td>
</tr>
</tbody>
</table>
A Timber Management Plan has been submitted as part of the subject application which contains the following elements that constitute a timber management plan:

- The parcel(s) parcels under same ownership or in multiple ownership contain a minimum of 5 acres primarily devoted to the growth and harvest of timber for commercial purposes.

- A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

- The date or dates of acquisition of the land;

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- Whether the land is used for grazing;

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- Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

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- A summary of the past experience and activity of the applicant in growing and harvesting timber;

- A summary of current and continuing activity of the applicant in growing and harvesting timber;

- A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

**Staff Recommendation:** ☒ Approval ☐ Denial
Timber Land - New Application
OSP2014-00004 - Sunset SW LLC
Geo ID: 380432 025554 - 1.72 Ac. (1.36 Ac. currently OST)
Geo ID: 380429 020020 - 3.91 Ac. (3.91 Ac. currently OST)
Total App. Ac. - .28 ac./Total Ac. (subject to approval) - 5.63

[Diagram of timberland parcels]

□ Subject Parcels
Zoning & Comprehensive Plan
Timber Land - New Application
OSP2014-00004 – Sunset SW LLC
Geo ID: 380432 025554 – 1.72 Ac. (1.36 Ac. currently OST)
Geo ID: 380429 020020 - 3.91 Ac. (3.91 Ac. currently OST)
App. Ac. - .28 ac./Total Ac. (subject to approval) - 5.63
<table>
<thead>
<tr>
<th>Ac</th>
<th>Rate</th>
<th>AV</th>
<th>Levy</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>390429 041191 0000</td>
<td>market value</td>
<td>3.81</td>
<td>30,000</td>
<td>114,300</td>
</tr>
<tr>
<td></td>
<td>open space value</td>
<td>3.81</td>
<td>13,861</td>
<td>52,809</td>
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</table>

2014 Tax Difference $705.99

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<th>Levy</th>
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<tr>
<td>380335 538230 0000</td>
<td>market value</td>
<td>0.22</td>
<td>23,727</td>
<td>5,220</td>
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<tr>
<td></td>
<td>open space value</td>
<td>0.22</td>
<td>3,339</td>
<td>735</td>
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2014 Tax Difference $55.24

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<th>Levy</th>
<th>Tax</th>
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</thead>
<tbody>
<tr>
<td>380335 525241 0000</td>
<td>market value</td>
<td>0.11</td>
<td>47,455</td>
<td>5,220</td>
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<tr>
<td></td>
<td>open space value</td>
<td>0.11</td>
<td>5,059</td>
<td>556</td>
</tr>
</tbody>
</table>

2014 Tax Difference $57.43

<table>
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<tr>
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<th>AV</th>
<th>Levy</th>
<th>Tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>380335 523242 0000</td>
<td>market value</td>
<td>0.11</td>
<td>47,455</td>
<td>5,220</td>
</tr>
<tr>
<td></td>
<td>open space value</td>
<td>0.11</td>
<td>5,059</td>
<td>556</td>
</tr>
</tbody>
</table>

2014 Tax Difference $57.43

PBR acreage rate calculation
FMV-((FMV-HCU)*PBR)=CU AC RATE

FMV | FMV | HCU | PBR | CU AC RATE |
---|-----|-----|-----|------------|
30,000 | (30,000 - 1,745) * 57.12% | = 13,861 |

23,727 | (23,727 - 1,745) * 92.75% | = 3,339 |

47,455 | (47,455 - 1,745) * 92.75% | = 5,059 |

47,455 | (47,455 - 1,745) * 92.75% | = 5,059 |
EXPLANATION OF TAX SHIFT:

LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01

Fair Market Value TAX = 600,000 X .01 = $6,000.00 Taxes

Current Use Value TAX = 110,400 X .01 = $1,104.00 Taxes

- Difference between FMV Tax & CUV Tax $6,000-$1,104 = $4,896

- $4,896 in taxes that would otherwise be collected from this tax payers are “shifted” to other tax payers in the form of an increase in the levy rate applied to all assessed values on property within any given taxing district (as applicable) including the subject parcel acres that are approved for assessment at current use. The particular taxing district will still need to meet its budget, and in order to accomplish this, to offset reduction in value from properties classified under the current use programs (and other exemptions) will increase its levy rate to meet its budget.

NOTE: at 100% PBR the shift in taxes on the above example would be $5,760.00

- Generally, a tax code area is defined by geographic boundaries where most all of the parcels are subject to the same consolidated levy rate. However, not all parcels in a geographically defined tax code area are captured by the same taxing districts. For example, if in a particular tax code area there are two parcels of land that are contiguous, and one is developed, and one is raw unimproved land, and both are in the fire district’s boundaries, the improved land will be subject to a levy by the fire district, but the unimproved land will not be subject to a levy by the fire district.

- The example above illustrates why it is difficult to calculate the increase in taxes affecting tax payers whose land is assessed at fair market value, that would be imposed by the approval of a parcel at current use values.

- To further illustrate: the compensating increase in a taxing district’s levy rate will also apply to land assessed at current use values within a taxing district’s boundaries, but since the assessed value per acre has been substantially reduced as compared to fair market value, the amount of compensatory tax to meet the district’s budget is proportionately much less from these parcels as compared to those from parcels assessed at fair market value.
HYPOTHETICAL EXAMPLE OF APPLIED PUBLIC BENEFIT RATING RESULTING IN NEW CURRENT USE VALUE AND "SHIFT" IN TAXES

UPON APPLICATION APPROVAL TO CLASSIFY OR RE-CLASSIFY AS OPEN SPACE LAND

TERMS:

FMVA = Fair Market Value per acre
CUVA = Current Use Value per acre
FMV = Fair Market Value per acre multiplied by # of acres
CUV = Current Use Value per Acre multiplied by # of acres
PBR = Public Benefit Rating
DIFF = Difference between FMV and CUV
SAVINGS = Savings is difference between Fair Market Value and Current Use Value multiplied by the PBR
NEW VALUE is FMV-SAVENTS
NEW VALUE X CONSOLIDATED LEVY RATE = NEW TAXES
LEVY RATE = HYPOTHETICAL CONSOLIDATED LEVY RATE

FORMULA:

FMV-CUV = DIFF
DIFF X PBR = SAVINGS
FMV-SAVINGS = NEW VALUE
NEW VALUE X LEVY RATE = TAXES

CALCULATION:

FMV - CUV = DIFF
600,000 - 24,000 = 576,000
DIFF X PBR = SAVINGS
576,000 x .85 = 489,600
FMV-SAVINGS = NEW VALUE
600,000 - 489,600 =
110,400 = New CU Value

NEW VALUE X LEVY RATE = NEW TAXES ON LAND VALUED AT CURRENT USE

110,400 x .01 = 1,104

FMV taxes = 6,000
Current Use Taxes = 1,104
TAX SHIFT = 4,896

HYPOTHETICAL EXAMPLE:

Application for Open Space Land
= 20 acres - vacant raw land

Variables:

Fair Market Value/acre = 30,000
PBR = 85%
CUVA = 1,200
CUV = 20 x 1,200 = 24,000

HYPOTHETICAL CONSOLIDATED LEVY RATE = 10 dollars per every thousand dollars of assessed value or .01
Whatcom County

Open Space Policy and Criteria

and

Public Benefit Rating System, 1995
SUMMARY OF WHATCOM COUNTY OPEN SPACE POLICIES

1. **Public Benefit Rating System:** All applications for open space open space and open space—farm and agriculture conservation will be rated according to the Whatcom County Public Benefit Rating System described in the following pages. A Public Benefit Rating of at least 45 must be attained in order to be recommended for approval. In addition, the amount of tax reduction to be granted to open space applications will be based on the Public Benefit Rating. The greater the public benefit provided by keeping the property in open space use, the greater the tax reduction.

II. **Public Access:** As a condition of approval, owners of open space parcels must agree to provide a certain degree of public access according to the Whatcom County Public Access Policy listed on Page 12. All applications shall be accompanied by the owner's proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined in the Whatcom County Public Access Policy. Note: On parcels where there is a documented occurrence of a State or Federal Endangered or Threatened species; Federal Proposed Endangered or Threatened Species; and State Sensitive or Monitor Species; or where there is a known or potentially significant archaeological site; or when the purpose of the open space is for wetland conservation, the public access requirement may be waived by the Council.

III. **Open Space Sign:** As a condition of approval, owners of open space parcels must agree to post a sign in a location visible to passing motorists, in accordance with the Whatcom County Open Space Sign Policy on Page 13 indicating the parcel's open space status and the availability of public access. As with the public access requirement, the requirement for posting of a sign may be waived in some instances.

IV. **Hold Harmless Agreement:** All open space property owners must sign a hold harmless agreement, freeing Whatcom County of any liability which may arise as a result of open space approval. A copy of the hold harmless agreement is included on Page 14.
WHATCOM COUNTY OPEN SPACE POLICY AND CRITERIA
AND PUBLIC BENEFIT RATING SYSTEM

I. APPROVAL CRITERIA: OPEN SPACE/OPEN SPACE AND OPEN
SPACE/FARM & AGRICULTURE CONSERVATION

Washington State law specifies that:
In determining whether an application made for open space current use taxation status should
be approved or disapproved, pursuant to RCW 84.34.020, subsection (1)(b) (Open
Space/Open Space) or subsection (c) (Open Space/Farm & Agriculture Conservation), the
Whatcom County Planning Commission will consider in its recommendations to the County
Council whether or not preservation of the current use of the land, when balanced against the
resulting revenue loss or tax shift from granting the application will:

1. Conserve or enhance natural, cultural or scenic resources, or
2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers, or
3. Protect soil resources and unique or critical wildlife and native plant habitat, or
4. Promote conservation principles by example or by offering educational
opportunities, or
5. Enhance the value of abutting or neighboring parks, forests, wildlife preserves,
nature reservations or sanctuaries or other open spaces, or
6. Enhance recreation opportunities, or
7. Preserve historic and archaeological sites, or
8. Affect any other factors relevant in weighing benefits to the general welfare of
preserving the current use of the property.

II. PUBLIC BENEFIT RATING SYSTEM

A. Based on the first seven (7) approval criteria listed above in conjunction with
number eight (8) above, the Planning Department staff will assign each
application for Open Space/Open Space and Open Space/Farm &
Agriculture Conservation a PUBLIC BENEFIT RATING using the method
described below.

B. A parcel must receive a PUBLIC BENEFIT RATING of at least forty five
(45) to be recommended for approval.

C. The PUBLIC BENEFIT RATING will be used by the County Assessor’s
office in determining the amount of tax reduction for Open Space/Open Space
and Open Space/Farm & Agriculture Conservation parcels.
III. PUBLIC BENEFIT RATING CALCULATION

A. BASIC VALUE
The Planning and Development Services Department will review each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application and will assign to each a BASIC VALUE that represents the degree of conformance with the BASIC VALUE CRITERIA listed in Section IV below.

B. PUBLIC BENEFIT VALUE
The BASIC VALUE will be increased (or decreased) by a percentage (PUBLIC BENEFIT VALUE) representing the benefit to the general welfare of preserving the current use of the property, based on conformance with the factors listed in section V below.

C. PUBLIC BENEFIT RATING FORMULA
The PUBLIC BENEFIT RATING will be calculated using the following formula:

\[ \text{PBR} = \text{BV} + (\text{BV} \times \text{PBV}) \]

where:

\[
\begin{align*}
\text{PBR} &= \text{PUBLIC BENEFIT RATING} \\
\text{BV} &= \text{BASIC VALUE} \\
\text{PBV} &= \text{PUBLIC BENEFIT VALUE}
\end{align*}
\]

IV. BASIC VALUE CRITERIA:

A. Open Space/Open Space
A maximum of ten points for open space/open space applications may be assigned for each of the 7 items based upon conformance with the criteria listed below.

1. Conserve or enhance natural, cultural or scenic resources.

Criteria for approval:

a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;

b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
c. lands which can serve to prevent the spread of high density residential development into less developed areas;

d. lands located adjacent to airports.

2. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.
Criteria for approval:

a. lands within a 100-year floodplain;
b. lands within or adjacent to areas of domestic water supply;
c. lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
d. lands which provide for preservation of bogs or swamps;
e. lands adjacent to bodies of water, both marine and fresh;
f. lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

3. Protect soil resources and unique or critical wildlife and native plant habitat.
Criteria for approval:

a. lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
b. lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
c. lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On parcels where there this documentation, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

4. Promote conservation principles by example or by offering educational opportunities.
Criteria for approval:

a. lands which are an example of application of conservation principles;
b. lands which offer opportunities for conservation education such as
interpretive centers or trails.

5. **Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces;**

   **Criteria for approval:**

   a. land that the local County Park Board has identified for possible future park acquisition;
   b. land designated in County Parks, Recreation and Open Space Study and other documents as significant park land, open space or conservation areas;
   c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;
   d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

6. **Enhance recreation opportunities.**

   **Criteria for approval:**

   a. lands possessing private recreational facilities which are available to the public without charge;
   b. lands which provide opportunities for passive recreational activities such as, but not limited to, hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

7. **Preserve historic and archaeological sites.**

   **Criteria for approval:**

   a. areas or sites which have been identified as significant on local, state or national Historic Registers;
   b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

B. **Open Space/Farm & Agriculture Conservation**

   Only parcels consistent with RCW 84.34.020(8)(a)(b) may be considered for Open Space/Farm & Agriculture Conservation.
A maximum of fifteen (15) points for Open Space/Farm & Agriculture Conservation applications may be assigned for each of the first two (2) items listed below, and a maximum of five (5) points may be assigned for the remaining eight (8) items listed below based upon conformance with the criteria listed.

1. **Traditional or potential farmland.**

   **Criteria for approval:** lands which have historically been used for agriculture; and/or lands that have not been devoted to a use inconsistent with agricultural uses.

2. **Soil Value**

   **Criteria for approval:**
   
   a. lands which contain prime farmland as defined by the U.S. Department of Agriculture; or
   
   b. lands which contain capability classification I-IV according to the US Department of Agriculture Land Capability Classification system.

3. **Comprehensive Plan Designation**

   **Criteria for approval:** Lands which are designated Agriculture or Incentive Agriculture in the Whatcom County Comprehensive Plan.

4. **Conserve or enhance natural, cultural or scenic resources.**

   **Criteria for approval:**
   
   a. lands which possess unique scenic vistas available to the public or are within the visual corridor of scenic roads or highways;
   
   b. lands which, when left in their natural state, would serve as buffers between areas of commercial or industrial activity and areas of human habitations;
   
   c. lands which can serve to prevent the spread of high density residential development into less developed areas;
   
   d. lands located adjacent to airports.
5. Protect streams, stream corridors, wetlands, natural shorelines and aquifers.

Criteria for approval:
- lands within a 100-year floodplain;
- lands within or adjacent to areas of domestic water supply;
- lands near or adjacent to streams or rivers where, if alterations were to occur, a resulting loss of quality would also occur in the conditions of water and the general functioning of the regime;
- lands which provide for preservation of bogs or swamps;
- lands adjacent to bodies of water, both marine and fresh;
- lands including and adjacent to wetlands and tidal areas (these lands would not necessarily be approved contingent upon public access agreement due to biological sensitivities).

6. Protect soil resources and unique or critical wildlife and native plant habitat.

Criteria for approval:
- lands where slopes exceed 25% or areas where underlying geology and soils are known to produce unstable conditions;
- lands where, if alterations were to occur, a resulting high risk of soil erosion would follow;
- lands which represent habitats for unique or critical wildlife or native plants, or where there is a documented occurrence of a State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species as listed in the Washington Department of Wildlife Nongame Data System. On these parcels the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.

7. Promote conservation principles by example or by offering educational opportunities.

Criteria for approval:
- lands which are an example of application of conservation principles;
- lands which offer opportunities for conservation education
such as interpretive centers or trails.

8. **Enhance the value to the public of abutting or neighboring parks, forests, agricultural lands, wildlife preserves, nature reservations or sanctuaries or other open spaces.**

**Criteria for approval:**

a. land that the local County Park Board has identified for possible future park acquisition;

b. land designated in County Parks, Recreation and Open Space Studies and other documents as significant park land, open space or conservation areas;

c. lands which, as open space, may help to provide for successful implementation of County Trail Plan;

d. lands which are near or adjacent to existing public parks, forests, wildlife preserves, nature reservations, sanctuaries, schools or other open space lands classified under RCW 84.33 or RCW 84.34;

9. **Enhance recreation opportunities.**

**Criteria for approval:**

a. lands possessing private recreational facilities which are available to the public without charge;

b. lands which provide opportunities for passive recreational activities such as but not limited to hiking, horseback riding, hunting, fishing, bird watching, and nature observation;

10. **Preserve historic and archaeological sites.**

**Criteria for approval:**

a. areas or sites which have been identified as significant on local, state or national Historic Registers;

b. areas or sites of known or potential archaeological significance. On parcels where there is a known or potentially significant archaeological site, the Department shall automatically recommend approval with a recommendation that a sign and public access shall not be required.
V. PUBLIC BENEFIT VALUE CRITERIA
The following list of open space characteristics have been determined to have a high priority in providing (or detracting from) benefit to the general welfare will be used to determine the PUBLIC BENEFIT VALUE for each Open Space/Open Space and Open Space/Farm & Agriculture Conservation application. The total PUBLIC BENEFIT VALUE will increase (or decrease) the BASIC VALUE by a certain percentage. It is possible to attain a PUBLIC BENEFIT VALUE of up to 140%, resulting in a maximum possible increase of 140%.

A. PUBLIC ACCESS
   (Maximum 40% increase)
   1. Shoreline access
   2. Recreation access
   3. Public road frontage
   4. Availability of off-street parking
   5. Quality of access in terms of accessibility and owner’s Proposed rules of conduct and access management

B. WATER RESOURCE PROTECTION (Maximum 20% increase)
   1. Watershed of domestic water supply
   2. Aquifer recharge area
   3. Preservation of hydrologic processes:
      - streams and natural drainage courses
      - wetlands, swamps, bogs
      - lakes

C. WILDLIFE HABITAT
   (Maximum 20% increase)
   1. State or Federal Endangered Species; State or Federal Threatened Species; Federal Proposed Endangered or Threatened Species; or State Sensitive or Monitor Species.
   2. Abundance and diversity of wildlife (associated with “edge” type habitat and areas of vegetative and topographic diversity).

D. PARCEL SIZE
   1. Twenty (20) acres or larger (Maximum 10% increase)
   2. Smaller than five (5) nominal acres (Maximum 10% decrease for OS Open Space applications; Required 40% decrease for OS Farm and Agriculture Conservation applications)

E. LINKAGE WITH OTHER OPEN SPACES
   (Maximum 5%
increase)
Adjacent to other Open Space, parks, or open areas associated with
Planned Unit Developments, Cluster Subdivisions, or Binding Site
Plans.

F. NATURAL AREAS  (Maximum 5% increase)
Based on how much of parcel is in natural cover and not developed
with homesite, outbuildings, and clearings.

G. FINANCIAL ADVANTAGE  (Maximum 40% decrease)
The use to which the land is put derives a financial advantage for it
owners.

H. DISCRETIONARY VALUE  (Maximum 40% increase)
(Minimum 40% decrease)
Discretionary value may be added or subtracted where land
provides or detracts from public benefits other than those
specifically listed above. If discretionary value is added or
subtracted, the provision of or detraction from public benefits shall
be set forth in detail on the supplemental application form and on
the scoring sheet.
PUBLIC ACCESS

All applications for Open Space/Open Space and Open Space Farm & Agriculture Conservation shall be accompanied by the owners' proposed rules of conduct and a description of how public access is to be managed, within the limitations outlined below.

The term "Public Access" is limited and defined as the right of any individual to request permission to enter and visit the premises on foot for legitimate recreational purposes such as bird watching, scenic observation, scientific investigation, picnicking during daylight hours, and strolling and general relaxation on the premises. This right is subject to the execution by the visitor of:

1. An agreement to abide by any reasonable rules of personal conduct required by the owners while on the premises, and

2. A general release of the owner from liability for any injury suffered by the visitor while on the premises. Permission will be granted without discrimination, EXCEPT in the case of a person in disorderly or apparently intoxicated condition in which case permission will be denied. Any permission previously granted shall become automatically revoked, and the visitor deemed to be a trespasser upon the premises.

Owners retain and reserve the power to officially post and enforce rules not inconsistent with the foregoing provisions and conditions for public entry upon the premises.

DATED this ______ day of __________, 2000

SIGNED:

_____________________
owner

_____________________
owner
OPEN SPACE SIGN POLICY

As a condition of approval of your open space application, you must post a two foot (2' x 2') sign on your property to indicate open space status, public access, and the Open Space Agreement number within one month of executing the Open Space Agreement.

The sign must be located on the property's road frontage in as conspicuous a location as possible.

Construction of the sign will be the responsibility of the applicant and will be in accordance with the specifications on file with the Planning and Development Services Department. It is the property owner's responsibility to assure that the sign remains in place during the period of the open space agreement.

This policy affects all Open Space/Open Space and Open Space/Farm and Agricultural Conservation applications.
Whatcom County Council

AFFIDAVIT OF POSTING OF
OPEN SPACE SIGN
PURSUANT TO WHATCOM COUNTY
OPEN SPACE SIGN POLICY AND SPECIFICATION

______________________________________, being first duly sworn upon oath, deposes and says:

That I have posted a two foot by two foot Open Space Sign in accordance with the Whatcom County Open Space Sign Policy and the Whatcom County Open Space Sign Specification, in a conspicuous location, visible to passing motorists, indicating the Open Space status of the following Open Space parcel(s):
Assessor’s Parcel Number(s):

_____________________________________

I understand that it is the property owner’s responsibility to assure that the sign(s) remains in place during the period of the Open Space Agreement; that posting of the Open Space sign is subject to verification by County personnel; and that failure to maintain the sign is a violation of the Open Space Agreement and may result in withdrawal of Open Space status with attendant taxes and penalties payable pursuant to RCW 84.34.

_____________________________________
Signature of Property Owner or other person posting property

I certify that I know or have satisfactory evidence that I signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated ____________________________
Signature of ____________________________
Notary Public ____________________________

Title ____________________________
My Appointment ____________________________
Expires ____________________________
WHATCOM COUNTY OPEN SPACE SIGN SPECIFICATION

As a condition of approval of your Open Space application, you must post at least one Open Space sign on the property’s road frontage in a conspicuous location, visible to passing motorists. It shall be the property owner’s responsibility to assure that the sign remains in place during the period of the Open Space Agreement.

A typical sign and mounting are illustrated below. The sign shall be purchased from the Whatcom County Planning and Development Department for $5.00 plus tax of .39 cents. The sign shall be permanently attached to a weather-resistant solid backing at least two feet by two feet in size. You may also post reasonable rules of personal conduct while on the premises, pursuant to Whatcom County Public Access Policy. Such rules shall be approved by the Planning Department prior to posting.

TYPICAL SIGN AND MOUNTING

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THIS PROPERTY IS DESIGNATED OPEN SPACE

Pursuant to the provisions of RCW 84.34. Public access is permitted for recreational purposes subject to the terms and conditions of Whatcom County Open Space Agreement No.

(space for posting rules)

2" x 2" posts

¼ inch plywood

ground level
HOLD HARMLESS AGREEMENT

Owner Name

Owner Name

In consideration for Whatcom County’s approval of the attached Open Space Application, with any conditions that may be imposed, hereby agree to defend, indemnify and hold harmless Whatcom County, its officers and employees from any claim that may arise against Whatcom County as a result of the approval of the attached application with conditions.

This agreement shall become binding only after the Whatcom County Council has approved the attached application.

Parcel number(s):

DATED: This ______ day of ______________________, 2008

SIGNED:

Owner Name

Owner Name
Open Space Taxation Act

The information and instructions in this publication are to be used when applying for assessment on the basis of current use under the “open space laws,” chapter 84.34 RCW and chapter 458-30 WAC.

What is the Open Space Taxation Act?
The Open Space Taxation Act, enacted in 1970, allows property owners to have their open space, farm and agricultural, and timber lands valued at their current use rather than at their highest and best use. The Act states that it is in the best interest of the state to maintain, preserve, conserve, and otherwise continue in existence adequate open space lands for the production of food, fiber, and forest crops and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

Lands qualifying for current use classification
The law provides three classifications:

Open space land
Farm and agricultural land
Timber land

Open space land is defined as any of the following:

1. Any land area zoned for open space by a comprehensive official land use plan adopted by any city or county.

2. Any land area in which the preservation in its present use would:
a. Conserve and enhance natural or scenic resources.
b. Protect streams or water supply.
c. Promote conservation of soils, wetlands, beaches or tidal marshes. (As a condition of granting open space classification, the legislative body may not require public access on land classified for the purpose of promoting conservation of wetlands.)
d. Enhance the value to the public of neighbouring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.
e. Enhance recreation opportunities.
f. Preserve historic sites.
g. Preserve visual quality along highway, road, and street corridors or scenic vistas.
h. Retain in its natural state tracts of land not less than one acre situated in an urban area and open to public use on such conditions as may be reasonably required by the legislative authority granting the open space classification.

3. Any land meeting the definition of “farm and agricultural conservation land,” which means either:
a. Land previously classified under the farm and agricultural classification that no longer meets the criteria and is reclassified under open space land; or
b. “Traditional farmland,” not classified, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

This fact sheet provides general information regarding the Open Space Taxation Act. The information is current at the date of publication. Please note subsequent law changes may supersede or invalidate some of this information.
Farm and agricultural land is defined as any of the following:

1. Any parcel of land that is 20 or more acres, or multiple parcels of land that are contiguous and total 20 or more acres, and are:
   a. Devoted primarily to the production of livestock or agricultural commodities for commercial purposes.
   b. Enrolled in the federal conservation reserve program (CRP) or its successor administered by the United States Department of Agriculture.
   c. Other commercial agricultural activities established under chapter 458-30 WAC.

2. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has produced a gross income equivalent to:
   a. Prior to January 1, 1993, $100 or more per acre per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $200 or more per acre per year for three of the five calendar years preceding the date of application for classification.

3. Any parcel of land that is five acres or more but less than 20 acres, is devoted primarily to agricultural uses, and has standing crops with an expectation of harvest within:
   a. Seven years and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.
   b. Fifteen years for short rotation hardwoods and a demonstrable investment in the production of those crops equivalent to $100 or more per acre in the current or previous calendar year.

4. For parcels of land five acres or more but less than 20 acres, “gross income from agricultural uses” includes, but is not limited to, the wholesale value of agricultural products donated to nonprofit food banks or feeding programs.

5. Any parcel of land less than five acres devoted primarily to agricultural uses and has produced a gross income of:
   a. Prior to January 1, 1993, $1,000 or more per year for three of the five calendar years preceding the date of application for classification.
   b. On or after January 1, 1993, $1,500 or more per year for three of the five calendar years preceding the date of application for classification.

6. “Farm and agricultural land” also includes any of the following:
   a. Incidental uses compatible with agricultural purposes, including wetland preservation, provided such use does not exceed 20 percent of the classified land.
   b. Land on which appurtenances necessary for production, preparation, or sale of agricultural products exist in conjunction with the lands producing such products.
   c. Any non-contiguous parcel one to five acres, that is an integral part of the farming operations.
   d. Land on which housing for employees or the principal place of residence of the farm operator or owner is sited provided the use of the housing or residence is integral to the use of the classified land for agricultural purposes, the housing or residence is on or contiguous to the classified land, and the classified land is 20 or more acres.
   e. Land that is used primarily for equestrian-related activities for which a charge is made, including, but not limited to, stabling, training, riding, clinics, schooling, shows, or grazing for feed. Depending on the number of classified acres, the land may be subject to minimum gross income requirements.
   f. Land that is primarily used for commercial horticultural purposes, including growing seedlings, trees, shrubs, vines, fruits, vegetables, flowers, herbs, and other plants in containers, whether under a structure or not. For additional criteria regarding this use, please refer to RCW 84.34.020(2)(h).
Timber land is defined as the following:
Any parcel of land five or more acres of multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential homsite. The term includes land used for incidental uses that are compatible with the growing and harvesting of timber but no more than 10 percent of the land may be used for such incidental uses.

It also includes the land which appurtenances necessary for the production, preparation, or sale of the timber products exist in conjunction with land producing these products.

The timber land classification may be unavailable in some counties. As a result of the passage of Senate Bill 6180 in 2014, counties have the option to merge their timber land classification into their designated forest land program under chapter 84.33 RCW. To determine whether your county offers the timber land classification, you may contact the county assessor or visit the Department of Revenue’s website at: www.dor.wa.gov.

Who may apply?
An owner or contract vendee may apply for current use assessment. However, all owners or contract vendees must sign the application for classification, and any resulting agreement.

When may I apply?
Applications may be made for classification at any time during the year from January 1 through December 31. If approved, current use assessment will begin on January 1 following the year the application was submitted.

Where do I get the application?
Application forms for the farm and agricultural land classification are available from the county assessor’s office. Application forms for the open space and timber land classifications are available from either the county assessor’s office or by contacting the county legislative authority.

Where do I file the application?
An application for open space classification is filed with the county legislative authority.
An application for farm and agricultural land classification is filed with the county assessor.
An application for timber land classification is filed with the county legislative authority. Timber land applications require that a timber management plan also be filed.

Is there an application fee?
The city or county legislative authority may, at their discretion, establish a processing fee to accompany each application. This fee must be in an amount that reasonably covers the processing costs of the application.

What happens after I file my application for open space classification?
Applications for classification or reclassification as “open space land” are made to the appropriate agency or official called the “granting authority.” If the land is located in the county’s unincorporated area, the county legislative authority is the granting authority on the application. If the land is located within an incorporated area of the county, the application is acted upon by both the county and city legislative authorities.

If the application is subject to a comprehensive plan that has been adopted by any city or county it will be processed in the same manner in which an amendment to the comprehensive plan is processed. If the application is not subject to a comprehensive land use plan, a public hearing on the application will be conducted, but a notice announcing the hearing must be published at least 10 days prior to the hearing.

The granting authority must approve or reject the application within six months of receiving the application. In determining whether an application made for classification or reclassification should be approved or denied, the granting authority may consider the benefits to the general welfare of preserving the current use of the property.
They may require that certain conditions be met including but not limited to the granting of easements.

If the application is approved, the granting authority will, within five calendar days of the approval date, send an agreement to the applicant for signature showing the land classification and conditions imposed. The applicant may accept or reject the agreement. If the applicant accepts, he or she must sign and return the agreement to the granting authority within 30 days after receipt.

The approval or denial of the application for classification or reclassification is a legislative determination and is reviewable only for arbitrary and capricious actions. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How does a public benefit rating system work?
If the county legislative authority has established a public benefit rating system (PBRS) for the open space classification, the criteria contained within the rating system governs the eligibility and valuation of the land subject to the application.

When a county creates or amends a PBRS, all classified open space land will be rated under the new PBRS. Land that no longer qualifies for classification will not be removed from classification, but will be rated according to the PBRS. Within 30 days of receiving notification of the new assessed value established by the PBRS, the owner may request removal of classification of the land without imposition of additional tax, interest, and penalty.

How do I appeal a denial of my farm and agricultural land application?
The owner may appeal the assessor’s denial to the board of equalization in the county where the land is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

What happens after I file my application for farm and agricultural land classification?
Upon application for classification or reclassification, the assessor may require applicants to provide data regarding the use of the land, including, but not limited to, the productivity of typical crops, sales receipts, federal income tax returns, other related income and expense data, and any other information relevant to the application.

The application will be considered approved unless the assessor notifies the applicant in writing prior to May 1 of the year after the application was submitted. The criteria for classification continue to apply after classification has been granted.

What is an “advisory committee”?
The county legislative authority must appoint a five member committee representing the active farming community within the county. This committee will serve in an advisory capacity to the assessor in implementing assessment guidelines as established by the Department of Revenue for the assessment of open space lands, farm and agricultural lands, and timber lands.

How do I appeal a denial of my farm and agricultural land application?
The owner may appeal the assessor’s denial to the board of equalization in the county where the land is located. The appeal must be filed with the board on or before July 1 of the year of the determination or within 30 days after the mailing of the notice of denial, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

What happens after I file my application for timber land classification?
Applications for timber land classification or reclassification are made to the county legislative authority. A timber management plan is required at the time of application or when a sale or transfer of timber land occurs and a notice of continuance is signed.

The application form requests information about forest management, restocking, fire protection, insect and disease control, weed control, and any other summary of experience and activity that supports the growth and harvest of timber for commercial purposes.
The application is acted upon in a manner similar to open space land applications and within six months of receiving the application.

Approval or denial of a timber land application is a legislative determination and is reviewable only for arbitrary and capricious action. Appeal can be made only to the superior court of the county where the application was filed.

Within 10 days of receiving notice of classification of the land from the granting authority, the assessor submits the notice to the county auditor for recording in the place and manner provided for the public recording of state tax liens on real property.

If approved, current use assessment will begin on January 1 following the year the application was submitted. The criteria for classification continue to apply after classification has been granted.

How is the value of classified land determined?
The assessor is required to maintain two values for each parcel that is classified. The first is the value that would be placed on the land if it was not classified. This is commonly referred to as the “fair market value.” The second is the current use land value based on its current use, not highest and best use, as classified by the granting authority.

Open space land located within a county that has adopted a public benefit rating system will be valued according to the criteria of the rating system.

In the absence of a rating system, the per acre value can be no less than the lowest per acre value of classified farm and agricultural land in the county.

In determining the current use value of farm and agricultural land, the assessor considers the earning or productive capacity of comparable lands from crops grown most typically in the area averaged over not less than five years. This earning or productive capacity is the “net cash rental” and is capitalized by a “rate of interest” charged on long term loans secured by a mortgage on farm or agricultural land plus a component for property taxes.

Timber land is valued according to a schedule prepared by the Department of Revenue according to chapter 84.33 RCW. The Department of Revenue annually adjusts and certifies timber land values to be used by county assessors in preparing assessment rolls. The assessors assign the timber land values to the property based upon land grades and operability classes.

How long does the classification last?
The land continues in its classification until a request for removal is made by the owner, the use of land no longer complies, a sale or transfer to an owner that causes land to be exempt from property taxes, or the ownership has changed and the new owner has not signed a Notice of Continuance. The notice of removal is recorded with the county auditor in the same manner as the recording of state tax liens on real property. Additional tax, interest, and penalties will apply if the land is removed and the removal does not meet one of the exceptions listed in RCW 84.34.108(6).

How do I withdraw from classification?
If intending to withdraw all or a portion of the land from classification after 10 years of classification, the owner must give the county assessor two years prior notice. This notice can be filed after the eighth assessment year of the initial 10-year classification period.

If a portion of the land is removed from classification, the remaining portion must meet the requirements of original classification unless the remaining land has different income or investment criteria.

When are taxes due on classified lands?
Land classified as open space, farm and agricultural, or timber land is assessed at its current use value and placed on the assessment rolls the year after the application was submitted. Taxes on classified land are due and payable the year after the current use value was placed on the assessment rolls.
What happens after I file a request to withdraw?
Upon receipt of a request for withdrawal, the assessor notifies the granting authority that originally approved the classification, and, when two years have elapsed, the assessor withdraws the land from classification. The land withdrawn from classification is subject to seven years of additional tax and interest, but not a 20 percent penalty.

What if I want to change the use of my classified property?
An owner changing the use of land from a classified use must notify the county assessor within 60 days of this action. The assessor will remove the land from classified status and impose an additional tax equal to the difference between the tax paid on the current use value and the tax that would have been paid on the land had it not been classified. The additional tax is payable for the last seven tax years, plus interest at the same rate as charged on delinquent property taxes, plus a penalty of 20 percent of the total amount.

If the assessor removes my land from classification, may I appeal?
Yes, the owner may file an appeal of the removal from classification to the county board of equalization on or before July 1 of the year of the determination, or within 30 days of the date the notice was mailed by the assessor, or within a time limit of up to 60 days adopted by the county legislative authority, whichever is later.

Upon removal from classification, what taxes are due?
At the time the land is removed from classification, any taxes owing from January 1 of the removal year through the removal date, and any additional tax, applicable interest, and penalty owing are due and payable to the county treasurer within 30 days of the owner being notified.

What if the additional taxes are not paid?
Any additional tax, applicable interest, and penalty become a lien on the land at the time the land is removed from classification. This lien has priority over any other encumbrance on the land. Such a lien may be foreclosed upon expiration of the same period after delinquency in the same manner as delinquent real property taxes. If unpaid, interest is charged on the total amount due at the same rate that is applied by law to delinquent property taxes. Interest accrues from the date of the delinquency until the date the total amount is paid in full.

What is done with the additional tax, interest, and penalty paid when land is removed from classification?
Upon collection, the additional tax is distributed by the county treasurer in the same manner in which current taxes applicable to the subject land are distributed. The applicable interest and penalties are distributed to the county's current expense fund.
How do I change the classification of my property?
Land may be reclassified, upon request by the owner, subject to all applicable qualifications for each classification, without additional tax, interest, and penalty for the following:

1. Land classified as farm and agricultural land may be reclassified to timber land; timber land may be reclassified to farm and agricultural land.

2. Land classified as either farm and agricultural land or timber land under chapter 84.34 RCW, or forest land under chapter 84.33 RCW may be reclassified to open space land.

3. Land classified as farm and agricultural land or timber land may be reclassified to forest land under chapter 84.33 RCW.

4. Land previously classified as farm and agricultural land may be reclassified to open space land as “farm and agricultural conservation land” and subsequently be reclassified back to farm and agricultural land.

Is supporting information required to change classifications?
The assessor may require an owner of classified land to submit data regarding the use of the land, productivity of typical crops, income and expense data, and similar information regarding continued eligibility.

Laws and Rules
It is helpful to read the complete laws, Revised Code of Washington, chapters 84.33 and 84.34 (RCW) and rules, Washington Administrative Code, chapter 458-30 (WAC) to understand requirements of the classifications and the tax liabilities incurred.

Need More Information?
Requirements for making application for current use classification are available at the county assessor’s office or by contacting the county legislative authority.

For general information contact:
- Department of Revenue,
  Property Tax Division
  P. O. Box 47471
  Olympia, Washington 98504-7471
  (360) 534-1400
- Website dor.wa.gov
- Telephone Information Center
  1-800-647-7706
- To inquire about the availability of this document in an alternate format for the visually impaired, please call (360) 705-6715.
- TTY users please call 1-800-451-7985.

Applications for reclassification are acted upon in the same manner as approvals for initial classification.
The county assessor approves all applications for farm and agricultural classifications and reclassifications.
The county legislative authority (and in some cases, the city legislative authority) approves all land classifications or reclassifications for timber land and open space land, including farm and agricultural conservation land.
Property Tax Advisory

Property Tax Advisories are interpretive statements authorized by RCW 34.05.230.

NUMBER: PTA 16.1.2011  ISSUE DATE: 10/26/11

Establishing Additional Eligibility Requirements for the Current Use Program

In response to multiple inquiries from county officials and property owners as to whether assessors and county legislative authorities have the authority to establish additional eligibility requirements for the three current use classifications other than those allowed in chapters 84.34 RCW and 458-30 WAC, the Department of Revenue has issued this Property Tax Advisory.

Question: May counties adopt ordinances establishing eligibility requirements for the three current use classifications in chapter 84.34 RCW that are in addition to the eligibility requirements in state statute?

Answer: Counties may adopt ordinances that establish additional eligibility requirements for the “open space” and “timber land” classifications, but not for the “farm and agricultural land” classification. However, additional eligibility requirements for the open space and timber land classifications must not conflict with state law and not arbitrarily or capriciously restrict access to either classification.

Analysis:

Article XI § 11 of the Washington State Constitution (“Constitution”) allows local governments to adopt regulations that are not in conflict with state law. It provides that “[a]ny county, city, town or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws.”

Washington case law has established two tests to determine a local ordinance’s validity with respect to state law. An ordinance is invalid if:

- it directly conflicts with a state statute; or
- the Legislature manifests an intent to preempt the field/subject matter.

Article VII § 11 of the Constitution allows three classes of land to qualify for current use valuation: open space land, farm and agricultural land, and timber land. Statutory criteria and procedures contained in

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2 Id. at 827.

To inquire about the availability of this document in an alternate format for the blind or those with vision loss, please call (360) 705-6715. Deaf and hard of hearing individuals may call 1-800-451-7985 (TTY) users.
chapter 84.34 RCW govern the three classifications of land. The Department of Revenue’s analysis of the validity of local ordinances for the three classifications of land is discussed below.

Example One: The county legislative authority passes an ordinance adopting a Public Benefit Rating System (PBRS). The section on Farm and Agricultural Conservation Land in the ordinance states the following:

"Farm and Agricultural Conservation Land" means:

- Land that was either previously classified under RCW 84.34.020(2) (farm and agricultural land) that no longer meets the criteria of that subsection and is reclassified as open space land: or
- Traditional farmland not classified under chapter 84.33 or 84.34 RCW that has not been irrevocably devoted to a use inconsistent with agricultural uses, and has a high potential for returning to commercial agriculture.

Eligible lands must meet one of these definitions and return to commercial agricultural production within 10 years.

The county legislative authority approves and denies all open space land (which includes the farm and agricultural conservation land sub classification) applications. The decision to grant or deny the application is a legislative determination and is reviewable only for “arbitrary or capricious" actions. (RCW 84.34.037(5)) In determining whether classification will be granted, the revenue loss or tax shift as well as the benefits from preserving or protecting environmental, scenic, or recreational resources must be considered. (RCW 84.34.037(2))

The county legislative authority may adopt a PBRS that establishes additional eligibility requirements for classifying property as open space land. (RCW 84.34.055) However, the additional requirements may not arbitrarily or capriciously restrict access to the open space land classification.

The eligibility requirement in this example which limits the amount of time a parcel can be classified as farm and agricultural conservation land may be permissible under RCW 84.34.037(4) as a condition of granting the open space land classification. This condition appears consistent with the intent that “farm and agriculture conservation land" have a high potential for returning to commercial agriculture as described in RCW 84.34.037(2)(c)(ii).

On the other hand, if land does not return to commercial agricultural production within the required period, the assessor could remove it from classification because the land did not meet the conditions of approval. An alternative to removing the land from classification could be reducing the benefit the parcel receives from being classified as farm and agricultural conservation land. This alternative may be more appropriate for land being preserved for long-term agricultural purposes instead of land that has a high potential of returning to commercial agricultural use within 10 years.

3 “Arbitrary and capricious” has been defined as action which is willful and unreasoning, without consideration and in disregard of facts and circumstances. See, Heinmiller v. Dep't of Health, 127 Wn.2d 595, 903 P.2d 433, cert. denied, 518 U.S. 1006, 116 S. Ct. 2526, 135 L. Ed. 2d 1051 (1995).
In contrast, if the county legislative authority passes an ordinance requiring all parcels be removed from classification after a 10-year period, regardless of how the land is being used, it could be considered arbitrary and capricious because land would be removed even if it is actively farmed or being preserved for future commercial agricultural use. Additionally, land used for commercial agriculture that cannot qualify for reclassification as farm and agricultural land under RCW 84.34.020(2) because it entered farm and agricultural conservation land as “traditional farmland,” should not be removed simply because of a time limitation if it meets the other statutory requirements for classification.

**Example Two:** The county legislative authority passes an ordinance that requires a minimum parcel size of 10 acres for classification as open space land.

**Open Space Land – RCW 84.34.020(1)**
Although there is no minimum parcel size requirement under state law, a county may require a minimum parcel size to qualify as open space land. For this example, the intent of the minimum acreage requirement is to maximize the benefit to the public by granting classification to larger parcels, so this would fall within the discretion granted by the statute to consider public benefit when approving an application.

**Farm and Agricultural Land – RCW 84.34.020(2)**
Unlike the open space land classification, the county assessor approves and denies all applications for the farm and agricultural land classification. This difference, together with the fact that the definition of “farm and agricultural land” contains detailed and objective criteria for determining whether a property qualifies, indicates that counties may not adopt ordinances that establish additional eligibility requirements for the farm and agricultural land classification without conflicting with Article XI § 11 of the Washington Constitution.

If a county adopts an ordinance that places additional restrictions on the eligibility for the farm and agricultural land classification, then the ordinance is removing a benefit that is available under the state statute. As such, an ordinance with minimum acreage requirements would conflict with state statute and be considered invalid by Washington courts.

Thus, the Department takes the position that state law preempts counties from imposing additional eligibility requirements beyond those listed in state statute.

**Timber Land – RCW 84.34.020(3)**
The county legislative authority approves and denies all timber land applications. This discretion primarily involves whether the property is devoted to the growth and harvest of timber for commercial purposes. (RCW 84.34.020(3))

As with the application process for open space land, the granting or denial of an application for the timber land classification is a legislative determination and is reviewable only for arbitrary and capricious actions. (RCW 84.34.041(4))
The county legislative authority must act upon the application "with due regard for all relevant evidence and without any one or more items of evidence necessarily being determinative." (RCW 84.34.041(3))⁴ Thus, the application must be considered as a whole, in its entirety, as to whether the county believes the property is devoted primarily to the growth and harvest of timber for commercial purposes.

Accordingly, counties may restrict the approval of applications by enacting ordinances that require certain conditions be satisfied depending on the characteristics of the property or the information in the timber management plan as long as a single condition, by itself, is not determinative of whether the application is denied.

However, to reconcile this provision with the language in RCW 84.34.041(3), these conditions must be related to ensuring the property is devoted primarily to the growth and harvest of timber for commercial purposes. Consequently, the Department would consider conditions, such as an ordinance imposing minimum acreage requirements that differ from those allowed in state statute, to be invalid as it conflicts with state statute.

**Example Three:** The county legislative authority adopts an ordinance that states the following:

Pursuant to RCW 84.34.020(3), the primary use of the property must be for the production of forest crops. To qualify for classification as timber land, the land cannot contain a residence if it is at least 5 but less than 20 acres. It is deemed that such land is being used primarily as a home site, and therefore does not comply with the intent and purpose of the timber land classification.

State law defines "timber land," in RCW 84.34.020(3), in part, as follows:

"Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial purposes. Timber land means the land only and does not include a residential home site.

Under state law, parcels that are less than 20 acres, but at least five acres, may be classified as timber land, even if there is a residence. The county ordinance, however, prohibits parcels smaller than 20 acres, with a residence, from qualifying for the timber land classification.

State law would allow a six-acre parcel of land with a one-acre home site to qualify for the timber land classification. If a parcel includes a home site, the home site acreage is excluded from the qualifying timber acreage.

The ordinance takes away a possibility that exists in state law; therefore, the Department would consider the ordinance to be invalid as it conflicts with the state statute.

****

⁴ However, see RCW 84.34.041(3) for three specific circumstances in which an application can be denied without regard to other evidence.
WHATCOM COUNTY PROPERTY TAX REDUCTION PROGRAMS

In a nutshell, what are Whatcom County’s property tax reduction programs all about?

In accordance with state law, all property shall be valued at one hundred percent of its true and fair value in money and assessed on the same basis unless specifically provided otherwise by law (RCW 84.40.030).

To summarize, the above listed property tax reduction laws were established by the Washington State Legislature to address a statewide concern that lands were being converted to uses inconsistent with commercial agriculture, commercial forestry, the preservation of farmland, shorelines, wetlands, scenic vistas, historical sites of importance, protection of soil and water resources, parks, forests, wildlife preserves, and recreational uses.

The above described tax laws give county assessor's authority to assess the value of property on the basis of its current use rather than what might be considered highest and best use (i.e., fair market value). Land classified as Farm & Agricultural Land, Open Space Land, Farm & Agricultural Conservation Land, Timber Land, and Designated Forest Land receive reduced assessed value, thereby providing financial incentives to property owners to voluntarily conserve and preserve these lands.

Open Space Taxation Act—Chapter 84.34 RCW

All applications for Farm & Agricultural Land are made to the County Assessor's Office, including applications made on lands located in cities. The County Assessor is the granting authority who approves or denies applications for Farm & Agricultural Land, and who monitors all applications for compliance with their eligibility requirements.

There is no minimum acreage to qualify. Applications made to classify land 20 acres or more must demonstrate that the land is used for "commercial agricultural purposes." Applications to classify land that consist of less than 20 acres must demonstrate that the land is devoted to commercial agricultural uses, and also must demonstrate that a certain amount of gross income is made from commercial agricultural uses.

New applications consisting of less than five acres must demonstrate an average gross income of $150.00 per year for at least two of five years preceding the date of application.

New applications consisting of 5 acres or more but less than 20 acres are required to show an average gross income of $200.00 per acre per year for three or more of the five years preceding the date of application.

The County Assessor is the granting authority who approves or denies applications for Designated Forest Land, and once approved, monitors all applications for compliance with eligibility requirements. Applications for designated forest land are made to the County Assessor’s Office, including applications on lands located within a city.

To qualify, new applications must consist of a minimum of 5 acres devoted primarily to growing and harvesting timber. At any time the county assessor determines that the land ceases to qualify for assessment under the designated forest land classification, the land must be removed from the classification and the owner may apply to have the land reclassified under Chapter 84.33 RCW.

Notice of Continuance: At the time of sale or transfer in ownership of lands classified under chapter 84.33 & 84.34 RCW, unless the buyer signs a Notice of Continuance and agrees to use the land in accordance with the purpose of classification, the land will be removed from the classification and the seller must pay compensating tax, or additional tax and interest, and penalties (as applicable). The owner may apply to have the land reclassified under Chapter 84.34 RCW.

*Incorporated Areas: Applications for Open Space Land, Farm & Agricultural Conservation Land, and Timber Land on lands located within a city are acted upon by a joint granting authority comprised of members from the respective city's council and the County Council.

**BACK TAXES** When land ceases to qualify or for any other reason is removed from any of the above described property tax classifications, and except in certain circumstances, the owner/seller will be required to pay additional tax or compensating tax, subject to interest, and penalties (as applicable).

Please see the back page of this document for more information about Whatcom County’s Property Tax Reduction Programs.
**TERMINOLOGY**

"Applicant" means the owner who submits an application for classification or reclassification of land under chapter 84.33 or 84.34 RCW.

"Application" means an application for classification or reclassification of land under chapter 84.33 or 84.34 RCW.

"Classified land" means a parcel(s) of land that has been approved by the appropriate granting authority for taxation under chapter 84.33 or 84.34 RCW.

"Reclassification" means when land classified under chapter 84.33 or 84.34 RCW is changed from one classification to a different classification established by chapter 84.34 RCW or into designated forest land as described in chapter 84.33 RCW.

"Current use value" means the taxable value of a parcel of land placed on the assessment rolls following its classification or reclassification under chapter 84.34 RCW.

"Granting authority" means the appropriate agency or official that acts on an application for classification or reclassification under chapter 84.33 or 84.34 RCW.

"Notice of continuance" is the notice signed when land classified under chapter 84.33 or 84.34 RCW is sold or transferred and the new owner requests that the classified use of the land remains classified under chapter 84.33 or 84.34 RCW.

"Removal" or "removed" is when land classified under chapter 84.33 or 84.34 RCW is removed from classification by the assessor because the owner seeks removal, the new owner fails to sign the notice of continuance, the assessor does not approve continuance, or the land is no longer used for the purpose under which classification was granted.

"True and fair value — Highest and best use": Unless specifically provided otherwise by statute, all property shall be valued on the basis of its highest and best use for assessment purposes. Highest and best use is the most profitable, likely use to which a property can be put. It is the use which will yield the highest return on the owner’s investment. In some cases, land used for agricultural purposes may have the highest market value, and so in this regard may be considered the "highest and best use", but when agricultural land is classified as Farm & Agricultural Land, the "current use value" of the land may in some cases be lower than the highest & best use value.

"Commercial agricultural purposes" means the use of land on a continuous and regular basis, prior to and subsequent to application for classification or reclassification, that demonstrates that the owner or lessee is engaged in and intends to obtain through lawful means, a monetary profit from cash income by producing an agricultural product.

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**PUBLIC BENEFIT RATING SYSTEM (PBRS)**

**Frequently Asked Questions**

The County’s Open Space Policy & Criteria & Public Benefit Rating System states in part that the Whatcom County Planning Commission will consider in its recommendations to the County Council, the loss of revenue or shift in taxes that would occur if an application for Open Space Land or Farm & Agricultural Conservation Land were to be approved. (Whatcom County Ord. 55-040) Even if an application receives a score of 45 points or above, which correlates with a recommendation of approval, the County Council will still consider the loss of revenue or shift in taxes that would occur in making its decision to approve or deny an application.

**Q. Why this discretion?**

A. Instead of electing to adopt a PBRS that results in automatic approval or denial of an application solely on the basis of its score, the County Council has exercised its authority, in accordance with state law, to also consider each application in terms of its overall benefit relative to the monetary shift in taxes that would occur if the application were to be approved. This is to ensure that for each application, the overall benefit is considered relative to the tax burden being shifted onto other tax payers.

For example, if a property owner applies for classification as Open Space Land on 1000 acres that is located within an urban area, and it scores a Public Benefit Rating of 45 or above, because this land when assessed at its highest and best use (i.e. fair market value) results in a property value that is very high, the shift in taxes as a result of approving this application might be considered too great a burden on the other tax payers and not worth the benefit of preserving the land in its current use, (relative to the shift in taxes); and for these reasons the granting authority might decide to deny the application, or approve only part of the application.

**Q. Who pays the taxes that are shifted?**

A. Generally, when applications are approved for assessment at current use, other tax payers pay more, because, when cumulative assessed property values go down, levy rates generally increase so that individual taxing districts may meet their budget goals; this "tax shift" also applies to those properties assessed at "current use."

Please Note: This is a very general explanation of the Public Benefit Rating System, and exceptions may apply.

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**RECLASSIFICATION**

Generally, and in some cases, land may be eligible to reclassify from one property tax classification to another. Subject to application fees, and approval under applicable criteria, land currently classified under one classification may be approved to reclassify into another classification without having to pay back taxes, interest, or penalties, at time of reclassification. It should be noted that any time land is removed from any of the classifications listed below, the owner will be required to pay additional tax, compensating tax, and interest and penalties, as applicable.

**Designated Forest Land may reclassify as:**

- Farm & Agricultural Land
- Open Space Land
- Timber Land

**Farm & Agricultural Land may reclassify as:**

- Open Space Land
- Farm & Agricultural Conservation Land
- Timber Land
- Designated Forest Land

**Timber Land may reclassify as:**

- Designated Forest Land
- Farm & Agricultural Land
- Open Space Land

**Farm & Agricultural Conservation Land may reclassify as:**

- Farm & Agricultural Land, but only if the land has been previously classified as Farm & Agricultural Land

Farm & Agricultural Conservation Land that qualified on the basis of being traditional farm land may NOT reclassify.

**Open Space Land may NOT reclassify.**

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**FACTS & FIGURES**

<table>
<thead>
<tr>
<th>Classification</th>
<th>Total Acres</th>
<th>% of Total Acres</th>
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<tbody>
<tr>
<td>Farm &amp; Agricultural Land</td>
<td>106,178</td>
<td>7.7%</td>
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<tr>
<td>Open Space Land</td>
<td>1,769</td>
<td>0.12%</td>
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<tr>
<td>Farm &amp; Agricultural Conservation Land</td>
<td>225</td>
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<td>Timber Land</td>
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<td>Designated Forest Land</td>
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<td>Total County Acres</td>
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</tr>
</tbody>
</table>

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**CONTACT US:**

Whatcom County Assessor
Courthouse Suite 106
311 Grand Avenue
Bellingham, WA 98225
Phone: (360) 676-6790
TDD: (360) 738-4555
E-mail: assessor@co.whatcom.wa.us

Whatcom County Planning & Development Services (PDS)
5280 Northwest Drive
Bellingham, Washington 98226
Telephone: (360) 676-6907
E-mail: pds@co.whatcom.wa.us

Washington State Department of Revenue is the state agency charged with overseeing the provisions of property tax reduction programs that are authorized under Chapters 84.33 & 84.34 RCW.
**TITLE OF DOCUMENT:**
Resolution Affirming the PDR Oversight Committee Ranking and Authorizing Whatcom County Purchase of Development Rights Administrator and Whatcom County Executive to Proceed with the Acquisition Process for PDR Applications

**ATTACHMENTS:**
Memo, Resolution, Purchase of Development Rights 2014 Applicant Ranking list (Exhibit 1), and presentation slides

---

**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.)

As required by the WCC 3.25A - Purchase of Agricultural Development Rights Ordinance, applications submitted by landowners interested in participating in the PDR program were reviewed for program eligibility and ranked pursuant to the PDR Guidelines Document, Ranking Criteria, by the PDR Oversight Committee. The ranking by the PDR Oversight Committee is now being submitted to Council. County Council needs to review the ranking as submitted by the Oversight Committee and affirm or modify that ranking list and authorize the PDR Administrator and County Executive to proceed with the acquisition process.

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**COMMITTEE ACTION:**

---

**COUNCIL ACTION:**

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**Related County Contract #:**

---

**Related File Numbers:**

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**Ordinance or Resolution Number:**

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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.
Memorandum

TO: The Honorable Jack Louws, County Executive
The Honorable Whatcom County Council Members

FROM: Karin Beringer, Planner-PDR Administrator

THROUGH: Mark Personius, Long Range Planning Manager

DATE: August 29, 2014

SUBJECT: Purchase of Development Rights, 2014 Application Ranking

As in previous years, the PDR Oversight Committee has reviewed and ranked the applications received by the Purchase of Development Rights Program, based on the specific criteria included in the PDR Guidelines document.

Three (3) applications totaling 125.5 acres are now under consideration. The group of applicant properties is comprised of acreage in Rural 5 Acre and Agricultural zoning districts.

Please review the attached resolution and ranking recommendations. The PDR Oversight Committee looks primarily at soils and location in their review. Council may want to consider additional factors in their final ranking approval. Once affirmation of the resolution adopting ranking of the 2014 properties is complete, staff will continue evaluating properties for purchase through due diligence and valuation activities.

Supplemental budget appropriation requests, if proposed, will come before Council for approval before proceeding with individual easement purchases.

Please contact Karin Beringer at extension 51072, if you have any questions or concerns regarding the enclosed materials.
RESOLUTION #__________________

AFFIRMING THE PDR OVERSIGHT COMMITTEE RANKING AND AUTHORIZING WHATCOM COUNTY PURCHASE OF DEVELOPMENT RIGHTS ADMINISTRATOR AND WHATCOM COUNTY EXECUTIVE TO PROCEED WITH THE ACQUISITION PROCESS FOR 2014 APPLICATIONS

WHEREAS, Whatcom County government recognizes agriculture as a major contributor to the local economy and a high quality of life for Whatcom County citizens; and

WHEREAS, The Growth Management Act and the County Comprehensive Plan support the retention of agricultural lands of long term commercial significance and encourage the use of innovative techniques to do so; and

WHEREAS, Ordinance #92-002 enacted a property tax levy known as the Conservation Futures Tax as authorized by RCW 84.34.230 to provide a funding source to assist in acquiring “open space land, farm and agricultural land, and timber land, and a significant Conservation Futures fund balance is available for additional farm land protection efforts;” and

WHEREAS, Ordinance #2002-054 adopted Whatcom County Code Title 32. A that authorized the creation of a Purchase of Development Rights (PDR) program that offers voluntary farm agreements that include the purchase of agricultural conservation easements on farmable land within Whatcom County, and

WHEREAS, Ordinance #2002-054 and WCC 3.25A established a Purchase of Development Rights Oversight Committee to provide review and assistance to the PDR Administrator, and

WHEREAS, The Whatcom County Council adopted the PDR Guidelines Document through Resolution #2002-040 which includes specific direction for program administration and conservation easement acquisitions, and

WHEREAS, The Purchase of Development Oversight Committee met on July 25, 2014 to develop a ranking of all applications received to date and forwarded that ranking to Council; and

WHEREAS, Council, pursuant to PDR Guidelines Document, must affirm or modify the properties as submitted by the PDR Oversight Committee, and

WHEREAS, Council has reviewed the application ranking and background materials at a public meeting, with input by County staff and PDR Oversight Committee members, and

WHEREAS, Council has determined the ranking in accordance with their policy priorities and the requirements of Title 3.25A and the PDR Guidelines Document.
NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that:

1. The PDR Oversight Committee and Administrator proceed with the acquisition of conservation easements in the order of the approved ranking (Exhibit 1) pursuant to the process outlined in the PDR Guidelines Document.

2. Expenditure of Conservation Futures Funds are authorized to cover expenses associated with purchase of conservation easements, including title search and insurance, appraisal services and Whatcom Land Trust fees.

3. The Executive is authorized to enter into Purchase and Sale Agreements, provided:
   a. Appraisals are completed and conservation easements are drafted which meet the requirements of the Whatcom County Purchase of Development Rights program, and
   b. Landowners have agreed to the offer price and conservation easement conditions.

APPROVED this ______ day of ________, 2014

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

ATTEST:

________________________________________
Dana Brown-Davis, Council Clerk

________________________________________
Carl Weimer, Chairperson

APPROVED as to form:

________________________________________
Civil Deputy Prosecutor
Finalist Properties

1. Donald & Ramona Littrell
   - Number of Points: 61.26
   - Type of Farm: Currently in Strawberries
   - Zoning District: RSA
   - Property Size: 39.1 acres
   - Number of Development Rights: 7

2. Justin Williams (Williams 2)
   - Number of Points: 51.7
   - Type of Farm: Currently in grain
   - Zoning District: AG
   - Property Size: 19.4 acres
   - Number of Development Rights: 1

3. Justin Williams & Constance Williams (Williams 1) (alternate)
   - Number of Points: 39.25
   - Type of Farm: Diverse vegetable, fruit, and hay farm
   - Zoning District: AG
   - Property Size: 66.2 acres
   - Number of Development Rights: 1
Donald & Ramona Littrell

- 39.1 Acres
- Delta Line Road, N of Birch Bay-Lynden Road; RSA zone
- 7 potential Development Rights
- 100% APO/NRCS Soils
- Strawberry production

Justin Williams

- 19.4 Acres
- Tom Road, N of Nooksack; Ag zone
- 1 potential Development Right
- 100% APO and NRCS Prime Soils
Justin Williams & Constance Williams

- 66.2 Acres
- Robinson Road, Everson; Ag zone
- 1 potential development right
- 52% APO Prime Soils
- Mixed vegetable production

PDR Easement Map with 2014 Applications
PDR Program Update

• 2014 PDR Applicant Property Process to date
• Budget
• Field Tour Recap
• Reverse Auction Update
• Outreach
• Questions?

2014 Applicant Properties Process to date

• Applications received by 5/2014
• Grant submitted to NRCS for 50% matching funds on 6/6/2014
• Received Unanimous PDR Oversight Committee Approval on 6/27/2014
• Presented to County Council Natural Resources Committee on 9/16/2014
Budget

- NRCS 50% match funding for 2014 PDR applicants is very unlikely.

- National funding allocation for ACEP (Agriculture Conservation Easement Program) has been cut in half, from $800 million to $400 million.

- Only 3 projects have been selected within their budget throughout Washington State with zero projects selected from Whatcom County. In the past, this program has been able to fund 25 or more statewide projects per year.

- NRCS is attempting to locate additional funding for next priority projects, but that is not likely to happen.

- Conservation Futures balance will be at $4.2 million by the end of 2014. The maximum cost of all 3 PDR applicant properties for 2014 is not expected to exceed $500,000 for 100% purchase price plus acquisition fees.

- Options for proceeding:
  - Move ahead with the 2014 applications without grant match funding
  - Wait until Spring 2015 and re-apply for the NRCS grant with the 2014 applications, in addition to any we may receive in the interim (after approved by PDR Committee and Council)
  - PDR Outreach Coordinator is researching private funds as a future potential source of matching dollars.

CONSERVATION FUTURES FUND as of 6/30/14

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Options for proceeding:
- Move ahead with the 2014 applications without grant match funding
- Wait until Spring 2015 and re-apply for the NRCS grant with the 2014 applications, in addition to any we may receive in the interim (after approved by PDR Committee and Council)
- PDR Outreach Coordinator is researching private funds as a future potential source of matching dollars.
Field Tour Recap

PDR PROGRAM summary

- 866 acres under voluntary farmland easements
- 152 acres proposed for possible easement purchases
- PDR unanimously recommended by Agricultural Advisory Committee as one of 9 tools necessary for Ag land protection, and a task in the Ag Strategic Plan
Reverse Auction Update

- Consultant team currently working on Mass Appraisal of 199 target properties.
- County will be conducting interest surveys after Mass Appraisal is completed to weigh interest in the program.
- If sufficient interest, consultant team will move forward with enabling ordinance and reverse auction.
- Recommendation for Council: Set aside funds from Conservation Futures Fund to ensure a successful program
PDR Outreach Update

• Community Outreach ~

• Targeted Outreach ~

Thank you
Questions?

Presented by
• Karin Beringer
  Planner 1; PDR Program Administrator
• Chris Elder
  PDR Outreach Coordinator
• Paul Schissler
  PDR Oversight Committee Chair
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Originator: Cliff Strong
Division Head: Mark Personius
Dept. Head: Sam Ryan
Prosecutor: Royce Buckingham
Purchasing/Budget: Jack Losows

Executive: Jack Losows

Date Initial Date Received in Council Office Agenda Date Assigned to:
9/4/14 (C) 9/16/14 NR Committee
9/4/14
9/4-14
9-4-14

WHATCOM COUNTY COUNCIL

TITIIE OF DOCUMENT:
A Whatcom County Ordinance Adopting Amendments to Whatcom County Code, Title 23 – Shoreline Management Program

ATTACHMENTS:
1. Staff Memo and Exhibits, including:
   A. Draft Ordinance
   B. Resolution No. 2009-020

SEPA review required? ( X ) Yes ( ) NO
SEPA review completed? ( X ) Yes ( ) NO
Should Clerk schedule a hearing? ( X ) Yes ( ) NO
Requested Date: 9/30/14

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Proposed ordinance adopting some Shoreline Management Plan amendments processed in 2009 and approved by Council per Resolution 2009-020. The County notified ECY on October 29, 2009, of the proposed amendments, and ECY responded on May 6, 2014. ECY is requiring three minor amendments to the language and recommend seven others.

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 Whatcom County Council
    The Honorable Jack Louws, Whatcom County Executive

THROUGH: Mark Personius, Long Range Planning Manager

FROM: Cliff Strong, Senior Planner

DATE: September 2, 2014

SUBJECT: Shoreline Management Program (SMP) 2009 Amendments

The Whatcom County Council approved SMP amendments by Resolution No. 2009-020 Exhibit B) on March 17, 2009. In order to become law, the State Department of Ecology (Ecology) had to review and approve the proposed amendments. The County notified Ecology on October 29, 2009, of the proposed amendments, and Ecology responded on May 6, 2014 (Exhibit C). Ecology is requiring three (3) minor amendments (Exhibit C, Attachment B) to the language. They have also made seven (7) recommended changes (Exhibit C, Attachment C).

Staff has prepared an ordinance for the Council’s consideration (Exhibit A) that includes the Council’s approved language from Resolution No. 2009-020, but with the three minor amendments required by Ecology, as well as seven recommended changes. Staff concurs with their required and recommended changes, though has one minor amendment to one of their recommended changes. If the Council adopts this ordinance as presented, then we would forward it to Ecology for review, and it would go into effect 14 days from their issuance of an acceptance letter.

Background

A SMP update was approved by the Council and State, and became effective August 8, 2008. However, some of the changes required by Ecology met steep opposition locally and in October 2008 Council asked staff for some amendments that would address the main concerns:

- Building and expanding within the shoreline setback,
- how to rebuild a damaged home,
- changes to the Cherry Point Management Area, and
- definitions.

These proposed amendments were discussed in four Natural Resource committee meetings and with the Shoreline Management Plan/Critical Areas Citizens’ Advisory...
Committee on January 7, 2009. The amendments were submitted for state review on April 6, 2009, a State hearing was held on August 3, 2009, and a formal request for a response was sent by Whatcom County on October 29, 2009. Ecology just responded on May 6, 2014.

Proposed Amendments

In general the amendments Council approved via Resolution No. 2009-020 provide relief from some of the administrative and financial burdens for single-family home owner projects of little to no shoreline impact, while still affording significant protections overall through 100 -150 foot buffers and a building area of 2,500 square feet on non-conforming lots. Council added clarifying language to better distinguish non-conforming uses, structures, and lots.

1. **Damage to single family residences on a nonconforming lot from natural causes.** The changes clarify the intent to allow for the repair or replacement of a single family residence unless there is a life and safety issue. The modified code refers to the definition of "hazardous areas." Additional clarity as to what needs to be commenced within 18 months was added. The change also distinguishes residential uses from non-conforming uses.

2. **Review of 2,500 sf Building Area Allowance and the nonconforming section.** For new development, the 2,500 square feet allowance for single family residences without a variance was retained. Clarification that impacted road and side yard setback do not count toward the 2500 sf building area was added. Lots that qualify as nonconforming would no longer be required to be less than 20,000 square feet and created prior to 1976. The 2,500 sf limit is consistent with Water Resource Protection Overlay Districts that apply on many shoreline lakes, i.e., Lake Whatcom and Lake Samish. Building within the buffer has required a variance in previous County Shoreline Programs; this is an allowance that is new to Whatcom County.

3. **Limited redevelopment of existing residence, landward of the water, would be changed to a Permitted use.** On existing residential development, amendments make it less onerous for landowners to remodel, by foregoing the conditional use permit or variance process. This allows for minor projects that add less than 250 sf gross floor area of the home on previously impacted surfaces. Expansions of 250 – 500 sf would only be allowed with mitigation of an equivalent area. Any proposal greater than 500 sf or on pervious surfaces would require a conditional use permit. This would be allowed once during the life of the structure without a conditional use permit.

4. In the **Cherry Point Management Area section**, language was added to reflect the importance of water dependent uses in this subarea.

5. **Recommended changing Flood Control Works** back to Substantial Development Permit; Ecology changed had changed it to, and still recommends, that a conditional use permit be required.
6. Definitions:
   a. Change **bedlands** definition back, but added language to address bedlands on rivers and streams where a federal line of navigability has not been established.
   b. To the definition of **development** we suggest adding “binding site plans” as another example of what constitutes development.

*Note: In the accompanying ordinance, Council’s amendments from Resolution No. 2008-020 are shown in standard strikeout underline. The Department of Ecology’s proposed changes to that language are shown in gray highlighted strikeout underline.*

**Department of Ecology’s Changes**

Please refer to Exhibit C for Ecology’s full text and their rationale. Their Required Changes are found in Attachment B of that exhibit, and their Recommended Changes are found in Attachment C of that exhibit.

**Required Changes**

a. Item 1 fixes a faulty cross-reference in Appendix F.

b. Items 2 and 3 substitute the word “illustrated” for defined, since it refers to a graphic in Appendix F.

**Recommended Changes**

c. Item 1 expands the types of nonconforming structures eligible for expansion through a Conditional Use Permit.

d. Item 2
   i. Expands the types of nonconforming structures damaged or destroyed allowed to rebuild;
   ii. Allows rebuilding of nonconforming structures in geohazard and flood areas as long as it is consistent with the Critical Areas Regulations of the County Code; and
   iii. Clarifies that this section pertains to nonconforming structures, not uses.

e. Item 3
   i. Clarifies that “life of the structure” is 100 years.
   ii. Adds a reference to the definition of “gross floor area.”

f. Item 4 adds a definition of “gross floor area” to the Shoreline Management Plan. Note that the definition provided by Ecology in their letter was, in staff’s opinion, unclear, so we have worked with Ecology staff to arrive at that language in the draft Ordinance (WCC 20.110.F).

g. Item 5 corrects a scrivener’s error.

h. Items 6 and 7 recommend that the County require Conditional Use Permits for flood control works and instream structures. However, this language had been removed by Council via Resolution 2009-020 based on testimony from the Department of Public Works and staff continues to support this position.
As it is only a recommended change from Department of Ecology, the Council is not required to make this change.

**Process**
Legal staff has recommended that a public hearing be held on this ordinance.

**Exhibits**
Exhibit A – Draft Ordinance adopting SMP Amendments
Exhibit B – Resolution No. 2009-020
ORDINANCE NO. ________

A WHATCOM COUNTY ORDINANCE ADOPTING 2009 AMENDMENTS TO WHATCOM COUNTY CODE, TITLE 23 – SHORELINE MANAGEMENT PROGRAM

WHEREAS, the Washington State Legislature passed the Shoreline Management Act (SMA) in 1971 requiring counties and cities to adopt and administer local shoreline management programs to carry out the provisions of the Act; and

WHEREAS, the Whatcom County Shoreline Management Program (WCC, Title 23 [SMP]) was originally adopted on May 27, 1976 and approved by the Department of Ecology on August 27, 1976; and

WHEREAS, in 1995 the State Legislature directed the Washington State Department of Ecology to update the Shoreline Management Program Guidelines (WAC 173-26), which serve as the standards and guidance that local governments must follow in drafting local shoreline management programs; and

WHEREAS, in December 2003, the Department of Ecology adopted new, revised Shoreline Guidelines (WAC 173-26); and

WHEREAS, pursuant to RCW 90.58.080, Whatcom County was required to review and update its existing 1998 Shoreline Management Program to ensure conformance with the required elements of the 2003 Shoreline Guidelines; and

WHEREAS, Whatcom County passed Ordinance 2007-017 adopting the Shoreline Management Program amendment on February 27, 2007; and

WHEREAS, on August 8, 2008 the State Department of Ecology approved the Whatcom County Shoreline Management Program with changes, per WAC 173-26-120; and,

WHEREAS, significant public comments were heard following Washington State Department of Ecology approval that resulted in the proposed amendments; and

WHEREAS, comments were solicited from federal, state, local, regional and tribal interests in accordance with Chapter 90.58.130 RCW; and

WHEREAS, on November 26, 2008, draft amendments to the County Shoreline Management Program were sent to the Department of Ecology for comment in accordance with WAC 173-26-100(5), a meeting was held on
December 19, 2009 to discuss potential amendments, and on Dec. 18 and Jan. 2, 2009, Ecology provided the County with comments; and,

WHEREAS, on December 3, 2008, draft amendments to the County Shoreline Management Program were sent to the Department of Commerce in accordance with WAC 173-26-100(5) and RCW 36.70A.106; and,

WHEREAS, the County Shoreline Citizens Advisory Committee provided input to the draft amendments at a public meeting on January 7, 2009; and,

WHEREAS, the Whatcom County Natural Resources Committee held public meetings on December 2, 2008, February 10, 2009, and January 27, 2009 to review the proposed shoreline master program amendments; and,

WHEREAS, as a result of these meetings, revisions recommended by the public, commenting agencies and the Department of Ecology were incorporated into the proposed shoreline master program amendments; and,

WHEREAS, the Whatcom County Natural Resource Committee recommended approval of the proposed amendments on Tuesday February 10, 2009; and

WHEREAS, after having undergone proper environmental review, a SEPA Determination of Nonsignificance (DNS) and Adoption of Existing Environmental Document was issued on February 17, 2009; and

WHEREAS, the revised Shoreline Master Program was formally considered by the County Council during a public hearing held on February 24, 2009, as advertised in accordance with WAC 173-26-100; and,

WHEREAS, on March 17, 2009, the County Council adopted Resolution 2009-020, declaring the Council’s approval of and intention to adopt the February 10, 2009 amendments; and,

WHEREAS, the County Council directed the Planning Department to send the proposed shoreline master program amendments and supporting materials, consistent with WAC 173-26-110 submittal requirements, to Ecology for its review and adoption, which was done on November 28, 2008; and,

WHEREAS, on May 6, 2014, Ecology provided comments, requiring three changes and recommending seven others; and,

WHEREAS, the Shoreline Master Program amendments were again formally considered by the County Council during a public hearing held on September 30, 2014, as advertised in accordance with WAC 173-26-100; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the Whatcom County Council adopts the February 10, 2009, shoreline master program amendments as modified by Ecology and shown in the following sections,
with the understanding that in accordance with RCW 90.58.090, the proposed
shoreline master program amendments will become effective locally fourteen (14)
days from State Department of Ecology written notice of final action.

SECTION 1. Whatcom County Code Section 23.50.070 is hereby amended as
follows:

23.50.07 Nonconforming Development

The following provisions shall apply to lawfully established uses, buildings and/or
structures that do not meet the specific standards of this Program.

A. The lawfully established use of any building, structure, land or premises existing
on the effective date of initial adoption of the Program (August 27, 1976), or
any subsequent amendment thereto or authorized under a permit or approval
issued, or otherwise vested, prior to the effective date of initial adoption of the
Program or any subsequent amendment thereafter shall be considered
nonconforming and may be continued, subject to the provisions of this section;
provided that, agricultural activities shall conform to WCC 16.16.290; provided
further that, bulkheads shall conform to SMP 23.100.13.

B. An existing use designated as a conditional use that lawfully existed prior to the
adoption of this Program or the adoption of an applicable amendment hereto
and which has not obtained a conditional use permit shall be considered a legal
nonconforming use and may be continued subject to the provisions of this
section without obtaining a conditional use permit.

C. A structure for which a variance has been issued but which does not comply with
applicable requirements of this Program as amended shall be considered a legal
nonconforming structure and the requirements of this section shall apply.

D. Nonconforming structures may be maintained, repaired, renovated, or
remodeled to the extent that nonconformance with the standards and
regulations of this Program is not increased, provided that a nonconforming
development that is moved any distance must be brought into conformance with
this Program and the Act; provided further, that as a conditional use a
nonconforming dock may be modified, reoriented or altered within the same
general location to be more consistent with the provisions of this SMP.

E. Nonconforming structures, other than single family residences and their
appurtenances, that are expanded or enlarged must obtain a variance or be
brought into conformance with this Program and the Act; provided that, non-
conforming single family residences may be expanded without a variance where
the provisions of SMP 23.50.07-(N) or (Q) apply; and provided further, that
nonconforming structures with conforming uses within commercial or mixed-use
developments may be expanded or enlarged within the existing building
footprint as a conditional use pursuant to Ch. SMP 23.100.05.B.1(e).
F. Nonconforming structures (including accessory structures) that are damaged or destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind if there is no feasible alternative that allows for compliance with the provisions of this Program; provided that, the following are met:

1. Structures containing conforming uses, such as a single family residence or accessory structure, that are located within a hazardous area shall be redeveloped consistent with the requirements of WCC 16.16 Article 3 (Geologically Hazardous Areas) and Article 4 (Frequently Flooded Areas); to be restored or replaced, is not a hazardous area, and provided that, the reconstruction permit process is commenced within eighteen (18) months of the date of such damage; and the reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in subsection (H) and (I) below; provided that, a structure can be replaced or restored in a coastal high hazard area subject to all applicable Whatcom County building and development codes.

2. Structures containing nonconforming uses can be replaced in kind if there is no feasible alternative that allows for compliance with the provisions of this Program, and the permit process is commenced within 18 months of the date of such damage, and the reconstruction does not expand, enlarge, or otherwise increase the nonconformity, except as provided for in subsection (E) above or (H) and (I) below.

G. If a non-agricultural nonconforming use is intentionally abandoned for a period of twelve (12) months or more, then any future use of the nonconforming building, land or premises shall be consistent with the provisions of this Program.

H. Replacement of any nonconforming structures or buildings or portions thereof within the Aquatic shoreline area shall comply with Program requirements for materials that come in contact with the water pursuant to SM 23.90.04.B.5; provided that, replacement of existing wood pilings with chemically treated wood is allowed for maintenance purposes where use of a different material such as steel or concrete would result in unreasonable or unsafe structural complications; further provided that, where such replacement exceeds twenty percent (20%) of the existing pilings over a ten (10) year period, such pilings shall conform to the standard provisions of this section.

I. Enlargement or expansion of single family residences by the addition of space to the main structure or by the addition of normal appurtenances as defined in Chapter 11, that extend waterward of the existing primary residential foundation walls, further into a critical area (excluding the buffers of the critical areas), further into the minimum required side yard setback, or that increase the structure height above the limits established by this Program shall require a variance; provided that, expansion of nonconforming single family residences other than that specified in this section (I), may be
expanded without a variance where the provisions of SMP 23.50.07(J) or (K) apply.

that would increase the non-conformity and/or encroach further into areas where
new structures or developments would not now be allowed under the
Program may be approved by conditional-use permit if all of the following
criteria are met:

1. The structure must be located landward of the ordinary high water mark.

2. The enlargement, expansion or addition shall not extend either further
waterward than the existing primary residential structure (not
appurtenance), further into the minimum side-yard setback, or further into
any critical area established by WCC 16.16 than the existing structure.
Encroachments that extend waterward of the existing residential foundation
walls or further into a critical area, or the minimum required side-yard
setback require a variance.

3. The area between the non-conforming structure and the shoreline and/or
critical area shall meet the vegetation conservation standards of SMP
23.90.06.

4. The remodel or expansion will not cause adverse impacts to shoreline
ecological functions and/or processes.

1. The enlargement or expansion of single family residences by the addition of
space to the exterior of the main structure or normal appurtenances is
permitted without a conditional use permit or variance once during the life of
the structure (100 years). The structure shall be located landward of the
ordinary high water mark, and any expansion of the footprint is landward of
the existing building footprint (not the side yard), and any vertical expansion
is within the existing building footprint; provided that the following conditions
are met:

1. Enlargements, expansions, or additions that increase the existing primary
structure or normal appurtenances by up to 250 square feet of gross floor
area as defined by SMP 23.110 shall be allowed provided the expansion or
addition will occur on a previously impacted impervious surface and the
expansion is not waterward of the common-line setback as defined
illustrated in Appendix F.

2. Enlargements, expansions, or additions that increase the total footprint of
the existing primary structure or normal appurtenances by 250 – 500
square feet of gross floor area as defined by SMP 23.110 shall be allowed
provided that the addition will occur on a previously impacted impervious
surface and the expansion is not waterward of the common-line setback
as defined illustrated in Appendix F; further provided, that the shoreline is
enhanced by the equivalent area of a building footprint that is expanded.
If enhanced through planting, the Administrator shall require a vegetation
management plan consistent with 23.90.06.B(2).

K. The Administrator shall require a conditional use permit if the enlargement or
expansion of single family residences by the addition of space to the exterior
of the main structure, or normal appurtenances is in excess of those
allowances provided in SMP 23.50.07.J.

L3. A structure that is being or has been used for a nonconforming use may be
used for a different nonconforming use only upon the approval of a
conditional use permit. In addition to the conditional use criteria of SMP
23.60.04, before approving a conditional use for a change in nonconforming
use, the Hearing Examiner shall also find that:

1. No reasonable alternative conforming use is practical because of the
configuration of the structure and/or the property;

2. The proposed use will be at least as consistent with the policies and
provisions of the Act and this Program and as compatible with the uses in
the area as the preexisting use;

3. The use or activity is enlarged, intensified, increased or altered only to the
minimum amount necessary to achieve the intended functional purpose;

4. The structure(s) associated with the nonconforming use shall not be
expanded in a manner that increases the extent of the nonconformity
including encroachment into areas, such as setbacks, and any critical
areas and/or associated buffers established by WCC 16.16, where new
structures, development or use would not be allowed;

5. The vegetation conservation standards of SMP 23.90.06.B.3 are met;

6. The change in use, remodel or expansion will not create adverse impacts
to shoreline ecological functions and/or processes; and

7. Uses which are specifically prohibited or which would thwart the intent of
the Act or this Program shall not be authorized.

M. Nonconforming lots are those that have a building area of more than
2,500 square feet available for a single family residence and normal
appurtenances and that is unrestricted by setbacks or buffers from shorelines
shall comply with the provisions of this Program.

N. Where permitted according to shoreline areas designations (SMP Table
23.100.01), new single family development on any legal lot in shoreline
jurisdiction that is nonconforming with respect to the required shoreline
buffer standards may be allowed without a shoreline variance when all of the
following criteria are met:
1. The depth of the lot (the distance from the ordinary high water mark to
the inside edge of the frontage setback) is equal to or less than the
standard buffer as indicated in WCC 16.16; and

2. The building area lying landward of the shoreline buffer and interior to
required sideyard setbacks is twenty five hundred (2,500) square feet or
less, provided that consideration shall be given to view impacts and all
single family residences approved under this section shall not extend
waterward of the common-line setback as measured in accordance with
Appendix F. The building area means the entire area that will be disturbed
to construct the home, normal appurtenances (except drainfields), and
landscaping; and

3. The lot is not subject to landslide hazard areas, alluvial fan hazard areas,
or riverine and coastal erosion hazard areas or associated buffers as
provided in WCC 16.16.310; and

4. The nonconforming lot was created prior to August 27, 1976; and

5. Appropriate measures are taken to mitigate all adverse impacts, including
but not limited to locating the residence in the least environmentally
damaging location relative to the shoreline and any critical areas and
provided that all administrative reductions to sideyard and/or frontage
setbacks are pursued, when doing so will not create a hazardous condition
or a condition that is inconsistent with this Program and Title 20; and.

6. There is no opportunity to consolidate lots under common ownership that
will alleviate the nonconformity; and

7. The area between the structure and the shoreline and/or critical area shall
comply with the vegetation conservation standards of SMP 23.90.06.B.3;
and

8. Development may not take place waterward of the ordinary high water
mark; and.

9. Facilities such as a conventional drainfield system may be allowed within
critical areas or their buffers, except wetlands and buffers, outside of the
building area specified above, subject to specific criteria in WCC 16.16.

K. New single-family development on nonconforming lots consisting of property
under contiguous ownership less than 20,000 square feet in size and not subject to
landslide hazard areas, alluvial fan hazard areas, or riverine and coastal erosion
hazard areas or associated buffers as provided in WCC 16.16.310 may be allowed
without a variance in accordance with the following criteria:

1. Nonconforming lots with a building area of 2,500 square feet or more
available for a single-family residence and normal appurtenances and unrestricted
by setbacks or buffers from shorelines or critical areas shall comply with the
provisions of this Program. The building area means the entire area that will be
disturbed to construct the home, normal appurtenances (except drainfields), and
landscaping.

2. Nonconforming lots that do not meet the requirement of subsection K.1
above shall provide the maximum setback and buffer dimension feasible while
providing for a building area of not more than 2,500 square feet on the portion of
the lot farthest from the required setback or buffer; provided that consideration
shall be given to view impacts and all single-family residences approved under this
section shall not extend waterward of the common line setback as measured in
accordance with Appendix F.

3. The area between the structure and the shoreline and/or critical area shall
comply with the vegetation conservation standards of SMP 23.90.060.B.3.

O. Redevelopment of nonconforming right-of-ways and associated
transportation structures, such as railroad trestles, may be permitted for
purposes of facilitating the development of public trails and/or public
shoreline access; provided that, such redevelopment shall be otherwise
consistent with the provisions of this Program, including but not limited to
the provisions for public access and no net loss of shoreline ecological
functions and processes, except as provided for in subsections (E) and (H)
above.
1 **SECTION 3.** Whatcom County Code Table 23.100.01 is hereby amended as follows:

2 **SMP Table 23.100.01**  

<table>
<thead>
<tr>
<th>Shoreline Uses</th>
<th>Shoreline Area Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban</td>
</tr>
<tr>
<td>Flood Control and Instream Structures</td>
<td>P</td>
</tr>
<tr>
<td>Channelization or dams for flood control</td>
<td>P</td>
</tr>
</tbody>
</table>

3 (All other portions of the table remain as is.)
SECTION 4. Whatcom County Code Section 23.100.06.C.7 is hereby amended as follows:

23.100.06.C  Flood Control Works and Instream Structures – Shoreline Area Regulations
7. Conservancy: Flood control works and instream structures are permitted as a conditional-use subject to policies and regulations; provided that, channelization or dams for flood control are prohibited.

SECTION 5. Whatcom County Code Section 23.100.17.A.7 is hereby amended as follows:

23.100.17.A.7  Site Development
All development should be constructed and operated in a manner that while permitting water-dependent uses, also protects shoreline resources, their ecological functions and processes, and that incorporates the following:

a. Low impact development approaches to avoid or minimize adverse impact to topography, vegetation, water quality, fish and wildlife habitat, and other natural site conditions;
b. Adequate temporary and permanent management measures to control erosion and sediment impacts during construction and operation; and
c. Adequate stormwater management facilities.

SECTION 6. Whatcom County Code Section 23.100.17.B.4.a(1) is hereby amended as follows:

23.100.17.B.4  Location and Design
a. Piers
(1) Piers shall be designed to accommodate only the necessary and intrinsic activities associated with the movement of material and cargo from land to water and water to land. The length of piers shall not extend beyond that which is necessary to accommodate the draft of the vessels intending to use the facility. Due to the environmental sensitivity of the area, Whatcom County shall limit the number of piers to one (1) pier, in addition to those in operation or approved as of January 1, 1998.
SECTION 7. Whatcom County Code Chapter 11 is hereby amended as follows:

Chapter 11 Definitions

B

4. “Bedlands” means those submerged lands below the line of extreme low tide in marine waters and below the OHWM-line of navigability or navigable of lakes and rivers. Where the line of navigability has not been established, bedlands would be those submerged lands below the OHWM in lakes and rivers.

14. “Building Area” means the entire area that will be disturbed to construct the home, normal appurtenances (except on-site sewage systems), and landscaping

15. “Building footprint” means for the purposes of this program, the ground area contained by the exterior walls of a building.

16. “Bulkhead” means a wall-like structure such as a revetment or seawall that is placed parallel to shore primarily for retaining uplands and fills prone to sliding or sheet erosion, and to protect uplands and fills from erosion by wave action.

D

3. “Development” means a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level. This term may include activities related to subdivision and short subdivisions; binding site plans; planned unit developments; clearing activity; fill and grade work; building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.

G

7. “Gross Floor Area” means, for the purposes of SMP 23-50-070.J, the sum total of the area included within the surrounding exterior walls of a building.

87. "Ground Water" means all water that exists beneath the land surface or beneath the bed of any stream, lake or reservoir, or other body of surface water within the boundaries of the state, whatever may be the geological formation or structure in which such water stands or flows, percolates or otherwise moves (RCW 90.44).

98. “Growth Management Act” means RCW 36.70A and 36.70B, as amended.
67. "Nonconforming Use," "Nonconforming Development" or "Nonconforming Structure" means a shoreline use, development or structure that was lawfully constructed or established prior to the effective date of this Program (August 27, 1976) or amendments hereto, but which does not conform to present regulations or standards of the Program.

78. "Nonwater-oriented Use" means uses that are not water-dependent, water-related or water-enjoyment. Nonwater-oriented uses have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act except single-family residences. Any use that does not meet the definition of water-dependent, water-related or water-enjoyment is classified as nonwater-oriented.

SECTION 7. Whatcom County Code Appendix F is hereby amended as follows:

Appendix F: Common-Line Setback Standards
1. Single-family residential development on nonconforming lots shall meet the setback standards established in Ch 23.90.13, Shoreline Bulk Provisions, except as provided in Ch 23.50.07.K(2)N(1) through (9) Nonconforming Development and subsection 2 below.

ADOPTED this ____ day of _________, 2014.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

WHATCOM COUNTY EXECUTIVE
APPROVED AS TO FORM:

Jack Louws, County Executive

( ) Approved   ( ) Denied

Date Signed: __________________
May 6, 2014

The Honorable Jack Louws
County Executive
Whatcom County
311 Grand Avenue
Bellingham, WA 98225-4082

Re: Whatcom County Shoreline Master Program Limited Amendment – Conditional Approval, Resolution Number 2009-020.

Dear Executive Louws:

I would like to take this opportunity to commend Whatcom County (County) for its efforts in developing the proposed amendments to the Shoreline Master Program (SMP). It is obvious that a significant effort was invested by your staff and engaged community. The amendments provide additional flexibility and clarity to homeowners to expand existing residences without impacts to shoreline ecological functions and processes. In addition, the amendments clarify several existing provisions that will make for easier implementation over the long term.

As we have already discussed with your staff, the Washington State Department of Ecology (Ecology) has identified specific changes necessary to make the proposal approvable. These changes are detailed in Attachment B. Ecology’s findings and conclusions related to the County’s proposed SMP amendment are detailed in Attachment A. Recommended changes are included in Attachment C.

Pursuant to RCW 90.58.090 (2)(e), at this point, the County may:
– Agree to the proposed changes, or
– Submit an alternative proposal. Ecology will then review the alternative(s) submitted for consistency with the purpose and intent of the changes originally submitted by Ecology and with the Shoreline Management Act.

Final Ecology approval will occur when the County and Ecology agree on language that meets statutory and Guideline requirements.
The Honorable Jack Louws  
May 6, 2014  
Page 2

Please provide your written response within 30 days to the Director’s Office at the following address:

WA State Department of Ecology  
Attention: Director’s Office  
PO Box 47600  
Olympia, WA 98504-6700

Ecology appreciates the dedicated work that you, the County Council, the Citizens Advisory Committee, Planning and Development Services Department, and the citizens of Whatcom County have put into the Shoreline Master Program amendment.

Thank you again for your efforts. We look forward to concluding the SMP amendment process in the near future. If you have any questions or would like to discuss the changes identified by Ecology, please contact our Regional Planner, Chad Yunge, at Chad.Yunge@ecy.wa.gov/(360)715-5206

Sincerely,

Maia D. Bellon  
Director

Enclosures

By Certified Mail [7012 1010 0003 3028 2952]

cc: Mark Personius, Whatcom County  
Erik Stockdale, Ecology  
Betty Renkor, Ecology  
Chad Yunge, Ecology
ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED LIMITED AMENDMENT TO THE WHATCOM COUNTY
SHORELINE MASTER PROGRAM

SMP Submittal accepted – June 24, 2009, Resolution No. 2009-020
Prepared by Chad Yunge, on March 10, 2014

Brief Description of Proposed Amendments: Whatcom County (County) has submitted to Ecology for review, a limited amendment to its Shoreline Master Program (SMP). The County Council adopted the amendment (Resolution No. 2009-020) on March 17, 2009; this followed adoption of a comprehensive SMP update the previous year. The purpose of the limited amendment is to address citizen concerns raised during the late stages of the County’s comprehensive update and to clarify how select provisions will be implemented by County Planners.

Regional staff recommends approval of the proposed limited amendment subject to both required changes (Attachment B) and recommended changes (Attachment C).

FINDINGS OF FACT

Need for Amendment: The proposed changes are intended as minor adjustments to portions of the Whatcom County SMP. According to the County, the proposed limited amendment is needed to address citizen and special interest concerns raised immediately prior to and following adoption of the County’s comprehensive SMP update. A bulk of these concerns center around changes required during Ecology’s final review of the updated SMP. The changes also include issues identified by County staff upon early implementation of the updated SMP.

SMP provisions to be changed by the amendment as proposed: The proposed amendments will clarify existing provisions concerning the replacement of non-conforming developments destroyed by fire or other natural disasters. The amendment also proposes a multi-tiered regulatory approach to allowing expansions to non-conforming residences within shoreline buffers and setbacks. The definition of non-conforming lot is changed to a more logical and simpler approach. A number of minor changes to other definitions are also proposed. New flood control works in the Conservancy shoreline designation are proposed to be allowed solely by substantial development permit review without conditional use permit review. Finally, clarifications of two provisions concerning the Cherry Point Special Management Area (CPMA) are being sought. More specifically, the following changes to the existing County SMP are proposed:
Non-conforming Development

- **WCC 23.50.070.F** – Clarify the process for replacing a non-conforming structure following destruction by fire, explosion, flood or other casualty.

- **WCC 23.50.070.E** – Clarify when a shoreline variance is required for expansion of a non-conforming structure other than a single-family residence. Allow additional types of non-conforming structures to expand within the existing footprint as a conditional use.

- **WCC 23.50.070.I** – Clarify when a shoreline variance is required for expansion of a non-conforming single-family residence and appurtenant developments.

- **WCC 23.50.070.J** - Create new thresholds for when a shoreline conditional use permit is required for expansion of a non-conforming single-family residence and appurtenant developments.

- **WCC 23.50.070.K** – Clarify when a shoreline conditional use permit is required for expansion of a non-conforming single-family residence and appurtenant developments.

- **WCC 23.50.070.M** – Create a new definition for “conforming lot”.

- **WCC 23.50.070.N** – Clarify the process for new single-family development on a non-conforming lot. This section replaces the existing process outlined in WCC 23.50.070.K.

Flood Control Works and Instream Structures

- **WCC 23.100.060.C.7** – Delete the requirement for a shoreline conditional use permit for new flood control projects within a Conservancy Environment Designation. Update Table 23.100.010 to reflect this change.

Cherry Point Management Area (CPMA)

- **WCC 23.100.170.A.7** – Add emphasis on preference for water dependent uses to site development policies within the CPMA.

- **WCC 23.100.170.B.4** – Clarify how many additional piers will be allowed within the CPMA for consistency with a 1999 settlement agreement.

Definitions

- **WCC 23.110.B.4** – Clarify definition of “Bedlands” to be consistent with WAC 332-30-106(9).
• **WCC 23.110.B.14** – Move definition of “Building Area” to definition section.

• **WCC 23.110.D.3** – Add binding site plans to the list of activities considered in the definition of “Development”.

**Amendment History, Review Process:** The County indicates the proposed SMP amendments originated from a local planning process that began on about August 2008 in response to citizen concerns over portions of the recently-adopted comprehensive SMP update. The County established a Citizen Advisory Committee to provide input on the proposed changes to the Planning Department and County Council. A public hearing before the County Council was held on February 24, 2009 and the Council considered all testimony. Affidavits of publication provided by the County indicate notice of the hearing was published on February 14, 2009 in the Bellingham Herald, the County’s official newspaper of record.

With passage of County Council Resolution No. 2009-020 on March 17, 2009, the County authorized staff to forward the proposed amendments to Ecology for final review and determination.

The proposed SMP amendments were received by Ecology for state review on April 8, 2009 and, after several exchanges of additional information, were verified as complete on June 24, 2009. Notice of the state comment period was distributed to state task force members and interested parties identified by the County on July 28, 2009, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on August 3, 2009 and continued through September 4, 2009. On August 3, 2009, Ecology held a public hearing in Bellingham, Washington to seek input on the proposed amendments. Notice of the hearing, including a description of the proposed amendment and the authority under which the action was proposed, the times and locations of the hearing and the manner in which interested persons could obtain copies and present their views was provided in the July 23, 2009 edition of the Bellingham Herald. A media advisory was sent to eight local papers, four local radio stations, and broadly covered in many local organizations electronic and traditional outreach mechanisms. A notice was also placed on Ecology’s Public Calendar System and also on the County’s website. Four individuals commented at the public hearing and one organization submitted comments on the proposed amendments. Ecology sent all oral and written comments it received to the County on September 18, 2009. The County submitted to Ecology its responses to issues raised during the state comment period on October 29, 2009. A copy of the County’s response along with Ecology’s response to the public comments is included as Attachment D. The review of the limited amendment was delayed due to regional staffing changes and shifting workload priorities. Whatcom County was the first county to adopt a comprehensive update to its SMP following the 2003 guidelines, and the seventh overall out of the 262 jurisdictions statewide that are required to update their SMPs by 2014. The state placed a statewide priority on review of comprehensive updates over other types of amendments in an attempt to meet the 2014 deadline (WAC 173-26-201(b)). With adoption of other comprehensive updates and staff changes in the region, review of the limited amendment resumed in 2013.
Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The County has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions).

Consistency with Limited Amendment Criteria: The proposed amendment has also been reviewed for compliance with WAC 173-26-201(1)(c) of the SMP Guidelines. The amendment is necessary to improve consistency with the Act’s goals, policies and implementing rules applicable to shorelines of the state within the local government (WAC 173-26-201(1)(c)(i)(D)) and to correct errors and omissions (WAC 173-26-201(1)(c)(i)(E)). Whatcom County is not currently conducting a comprehensive shoreline master program (WAC 173-26-201(1)(c)(ii)). The proposed amendments will not foster uncoordinated and piecemeal development of the state’s shorelines (WAC 173-26-201(1)(c)(iii)). The amendment is consistent with all applicable policies and standards of the Act (WAC 173-26-201(1)(c)(iv)). All procedural rule requirements for public notice and consultation have been satisfied (WAC 173-26-201(1)(v)). The master program guidelines analytical requirements and substantive standards have been satisfied, as applicable to the amendments. The amendments will not result in a net loss of shoreline ecological functions (WAC 173-26-201(1)(c)(vi)).

Consistency with SEPA Requirements: The County submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on February 17, 2009. Ecology did not comment on the DNS.

Other Studies or Analyses supporting SMP limited amendment: Ecology reviewed the following reports and data prepared by the County in support of the SMP amendment:

These supporting documents include:

- SEPA Checklist and Determination #SEP2009-00014
- County Council Resolution #2009-020 and Agenda Bill
- County Approved Proposed Amendments text,
- PDS Amendments Rationale 02/02/09
- Agency and Public Notice Documents
- County SMP Citizens Advisory Committee Agendas/Meeting Notes
- County Public Comment Response Matrix 10/29/09
- County PDS Technical Memo, P. Gill to B. Wenger - GIS Analysis of Amendments to the Shoreline Program 07/21/09
Summary of Issues Raised During The Public Review Process: The County’s SMP limited amendment drafting/public review process was at times contentious, although respect was demonstrated by those that participated. The County did a good job of bringing together many diverse interest groups and facilitating meaningful dialogue with all the parties. This effort was reflected in the fact that only four people spoke at Ecology’s public hearing and only one written comment was received. During the eight month local public participation period, considerable discussion centered on the following topics:

Buffers and structural setbacks – Citizens expressed concern over the application of critical area buffers within shorelines, however, many citizens also appreciated the flexibility built into the provisions for existing lots and structures. A common comment was that the mechanisms for modifying buffer and setbacks were overly complicated and difficult for the layperson to understand. At the same time, citizens tended to not want a standard “one-size-fits-all” buffer and favored mechanisms to be able to tailor the buffer to the individual circumstances. Some citizens saw no value in the buffer requirement and others thought the buffers were too weak and didn’t protect the resource as applied.

Non-conforming structures and uses – Existing non-conforming structures that could be used for conforming, even preferred, uses were the subject of citizen requests for greater flexibility in these limited instances where such uses are also consistent with the shoreline designation. Nearly the entire discussion has been focused on single-family residences which are a priority shoreline use and when they are deemed non-conforming structures due to enlarged buffers. One commenter also suggested the existing flexibility provided for non-conforming commercial structures housing conforming uses be extended to other types of uses such as recreational, agricultural, interpretive centers, etc. Finally, citizens urged clarification of the current and decades-old SMP policy of allowing residences to be re-built if destroyed by fire or other natural disasters if they are not located in a hazard area i.e. floodway, unstable cliff, etc.

A responsiveness summary addressing the public’s comments during the County review process was submitted with the proposed SMP amendment and reviewed by Ecology staff. In addition, a public comment summary following the Ecology public hearing was provided to the County and the County’s response and matrix addressing the public’s concerns is attached.

Summary of Issues Identified by Ecology as Relevant To It’s Decision: The following provides a general summary of issues relevant to Ecology’s final decision on the County SMP amendment:

Cherry Point Management Area (CPMA): The industries within the CPMA expressed concern that environmental protection would be the primary element in review of water dependent uses within the CPMA. The County proposes a minor wording change to reinforce the Act’s preference in fostering water-dependent uses.

In addition, Pacific International Terminals (PIT) identified an inconsistency between the SMP and a 1999 Settlement Agreement regarding the ultimate number of industrial piers that can be
developed within the CPMA. The County proposes a minor change to resolve this inconsistency.

**New Flood Control Works within the Conservancy Environment Designation:** Following the Whatcom County's comprehensive SMP update, Public Works River and Flood staff expressed concern regarding Ecology's requirement that new flood control works projects obtain a conditional use permit within the Conservancy Environment Designation. The County proposes eliminating the conditional use permit requirement. Ecology recommends that the conditional use requirement remain.

**Appendix F:** Ecology identified a minor text amendment related to language found in Appendix F of the SMP. The required change is necessary to reference the correct code citation. In addition, minor changes to two new code sections (WCC 23.50.070.J.1 & WCC 23.50.070.J.2) are required to clarify which portions of Appendix F apply to the new provisions.

**Gross Floor Area:** Ecology recommends that a definition for the term Gross Floor Area be added to the SMP in relation to two new code sections (WCC 23.50.070.J.1 & WCC 23.50.070.J.2).

**CONCLUSIONS OF LAW**

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the County's SMP proposal, subject to and including Ecology's required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that the proposed SMP amendment, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new master program amendments (WAC 173-26-201(2)(c)).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the County, be included in Ecology's approved SMP amendments.

Consistent with RCW 90.58.090(4), Ecology concludes that those SMP segments relating to critical areas within Shoreline Management Act jurisdiction provide a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).
Ecology concludes that the County has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the proposed amendments satisfy the criteria for approval of limited amendments found in WAC 173-26-201(1)(c).

Ecology concludes that the County has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the County has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notices, consultation with parties of interest and solicitation of comments from tribes, adjacent local government agencies, state and federal agencies, and Ecology throughout the limited amendment process.

Ecology concludes that the County has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the County's SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a)

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments is consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the County. Ecology approval of the proposed amendment with required changes, is effective on the date Ecology receives written notice that the County has agreed to the required changes. As provided in RCW 90.58.090(2)(e)(ii) the County may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall the final action on the amendment.
Attachment B — Ecology Required Changes

The following changes are required to comply with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III):

<table>
<thead>
<tr>
<th>ITEM</th>
<th>SMP Submittal PROVISION (Cite)</th>
<th>TOPIC</th>
<th>BILL FORMAT CHANGES (underline = additions; strikethrough = deletions)</th>
<th>RATIONALE</th>
</tr>
</thead>
<tbody>
<tr>
<td>01</td>
<td>Appendix F</td>
<td>Common-Line Setback Standards</td>
<td>1. Single-family residential development on nonconforming lots shall meet the setback standards established in WCC 23.90.130, Shoreline Bulk Provisions, except as provided in WCC 23.50.070(N)(1) through (N)(9)(A). Nonconforming Development, and subsection 2 below.</td>
<td>This change is required to correct the code citation that was altered within the corresponding regulation by this amendment.</td>
</tr>
<tr>
<td>02</td>
<td>23.50.070.J.1</td>
<td>Non-conforming Development</td>
<td>1. Enlargements, expansions or additions that increase the existing primary structure, or normal appurtenances by up to 250 square feet of gross floor area shall be allowed provided the expansion or addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common-line setback as defined illustrated in appendix F.</td>
<td>This change is required to refer only to the diagram found in Appendix F. The text associated with Appendix F is specific to WCC 23.50.070(N)(1) through WCC 23.50.070(N)(9) and not applicable to this new code provision.</td>
</tr>
<tr>
<td>03</td>
<td>23.50.070.J.2</td>
<td>Non-conforming Development</td>
<td>2. Enlargements, expansions or additions that increase the total footprint of the existing primary structure, or normal appurtenances by 250-500 square feet of gross floor area shall be allowed provided that the addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common-line setback as defined illustrated in appendix F; further provided, that the shoreline is enhanced by the equivalent area of building footprint that is expanded. If enhanced through planting, the Administrator shall require a vegetation management plan consistent with 23.90.050.B(2).</td>
<td>This change is required to refer only to the diagram found in Appendix F. The text associated with Appendix F is specific to WCC 23.50.070(N)(1) through WCC 23.50.070(N)(9) and not applicable to this new code provision.</td>
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## Attachment C – Ecology Recommended Changes

The following changes are recommended to clarify elements of the County's amended SMP

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<thead>
<tr>
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<tbody>
<tr>
<td>01</td>
<td>WCC 23.50.070.E</td>
<td>Non-conforming Development</td>
<td>E. Non-conforming structures, other than single family residences and their appurtenances, that are expanded or enlarged must obtain a variance or be brought into conformance with this Program and the Act; provided that, non-conforming structures with conforming uses within commercial or mixed use developments may be expanded or enlarged within the existing building footprint as a conditional use pursuant to SMP 23.100.050.B.1.e.</td>
<td>This is a County requested change to expand the types of non-conforming structures eligible for expansion through a conditional use review. See Attachment D – Responsiveness Summary.</td>
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| 02   | WCC 23.50.070.F                | Non-conforming Development | F. Non-conforming structures, (including accessory structures) that are damaged or destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind; provided that:  
1. Structures containing conforming uses, such as the single family residence or accessory structure, that are located within a hazardous area, shall be redeveloped consistent with the requirements of CAD Article 3 (Geologically Hazardous Areas) and Article 4 (Frequently Flooded Areas); to be restored or replaced, is not in a hazardous area and the permit process is commenced within eighteen (18) months of the date of such damage; and the reconstruction does not expand, enlarge, or otherwise increase the non-conformity, except as provided for in subsection (h) and (i) below; provided that, a structure can be replaced or restored in a coastal high hazard area subject to all applicable Whidbey County building and development codes.  
2. Structures containing non-conforming uses can be replaced in kind if there is no feasible alternative that allows for compliance with the provisions of this Program, and the permit process is commenced within (18) months of the date of such damage, and the reconstruction does not expand, enlarge, or otherwise increase the non-conformity, except as provided for in subsection (E) above or (H) below. | The first change expands this provision to cover other types of structures containing conforming uses. The current language only pertains to single-family residences.  
The second change expands this provision to allow reconstruction in all hazardous areas. The current provision only allows reconstruction in certain types of frequently flooded areas.  
The third change clarifies that this section relates to structural damage or complete destruction by fire, explosion, flood or other casualty. |
| 03   | WCC 23.50.070.J                | Non-conforming Development | J. The enlargement or expansion of single family residences by the addition of space to the exterior of the main structure or normal appurtenances is permitted without a conditional use permit or variance once during the life of the structure (100 years). The structure shall be located landward of the ordinary high water mark, and any expansion of the footprint is landward of the existing building footprint, (not in the side yard) and any vertical expansion is within the existing building footprint; provided that the following conditions are met:  
1. Enlargements, expansions or additions that increase the existing primary structure, or normal appurtenances by up to 250 square feet of gross floor area as defined by The first change clarifies what "life of the structure" means consistent with other provisions of the SMP (WCC 23.100.110.B.1.b)  
The second change refers to an added definition of "Gross floor area" as it is currently not defined in the SMP. |
2. Enlargements, expansions or additions that increase the total footprint of the existing primary structure, or normal appurtenances by 250 – 500 square feet of gross floor area as defined by 23.110, shall be allowed provided that the addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common-line setback as defined in appendix F; further provided, that the shoreline is enhanced by the equivalent area of building footprint that is expanded. If enhanced through planting, the Administrator shall require a vegetation management plan consistent with 23.90.060.B(2).

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<thead>
<tr>
<th></th>
<th>WCC 23.110.F</th>
<th>Definitions</th>
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<tbody>
<tr>
<td>04</td>
<td>7. “Gross floor area” means, for the purposes of Section 23.50.070.I of the chapter, the sum total of the area included within the surrounding exterior walls of a building or portion thereof. The floor area of a building, or portion thereof, not provided within surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.</td>
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This change adds a definition of “Gross floor area” adapted from WCC 20.50.145.

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<tr>
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<th>WCC 23.50.070.M</th>
<th>Non-conforming Development</th>
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<tr>
<td>05</td>
<td>M. Conforming lots are those that have a building area of more than 2,500 square feet available for a single-family residence and normal appurtenances and unrestricted by setbacks or buffers from shorelines and shall comply with the provisions of this Program.</td>
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This change corrects a scrivener's error.

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<tr>
<th></th>
<th>WCC 23.50.060.C.7</th>
<th>Flood Control Works and Instream Structures – Shoreline Area Regulations</th>
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<tr>
<td>06</td>
<td>7. Conservancy: Flood control works and in-stream structures are permitted as a conditional use subject to policies and regulations; provided that, channelization or dams for flood control are prohibited.</td>
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This change restores the requirement that a conditional use permit be obtained for new flood control projects located in a Conservancy Shoreline Designation.

The Master Program Guidelines direct local governments to assign conditional use permitting requirements to uses and developments that by their intrinsic nature, may have a significant ecological impact on shoreline ecological functions or shoreline resources depending on location, design, and site conditions (WAC 173-26-241(2)(b)(ii)(B)). Structural flood hazard reduction measures can damage ecological functions crucial to fish and wildlife species, bank stability and water quality and shall be avoided whenever possible. When necessary, they shall be accomplished in a manner that assures no net loss of ecological functions and ecosystem-wide processes (WCC 23.26-221(3)).

The Whatcom County SMP assigns a conservancy designation to river reaches with relatively intact riparian conditions and outstanding recreational and scenic values (WCC 23.30.080). The purpose of a conditional use is to provide the opportunity to require specially tailored environmental analysis or design criteria for types of use or development that may otherwise be inconsistent with a specific environment designation within a master program (WAC 173-26-241(2)(b)(i)).

A conditional use for new flood control works is consistent with the above criteria and would provide the flexibility to develop flood control projects when necessary in the most sensitive river reaches throughout Whatcom County.
# Attachment D – Responsiveness Summary to Public Comments

The following comments were received during the Ecology Comment Period (August 3, 2009 to September 4, 2009)

<table>
<thead>
<tr>
<th>ITEM</th>
<th>SMP Section</th>
<th>Comment / Concern</th>
<th>Requested Changes</th>
<th>Local Government Response / Rationale</th>
<th>Ecology Response / Rationale</th>
</tr>
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<tr>
<td>01</td>
<td>23.50.070</td>
<td>Verbal Comment: The suggestion was made that Section 23.50.07.E, concerning non-conforming structures, should be expanded to allow more types of structures containing conforming uses such as interpretive centers, barns, etc. to be allowed to be modified as a conditional use.</td>
<td>Change Section 23.50.07.E of proposed amendments Non-conforming structures with conforming uses are allowed to expand within current building footprint if the use is commercial or mixed. This is allowed if development is consistent with the SMP through a conditional use permit. Improving a structure within its existing building footprint has potential to benefit the public, the shoreline, and the owner. Adding a special allowance for commercial and mixed-use favors these uses over other water oriented uses. Allowing for water oriented uses, consistent with the SMA, to expand their non-conforming structure within the existing building footprint could make business economically viable while providing public benefit through better shoreline access and/or restoration.</td>
<td>Change section 23.50.07 (E) to remove “within commercial or mixed-use developments”</td>
<td>Ecology agrees to this change. See Item 01 in Attachment C – Ecology Recommended Changes.</td>
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<td>02</td>
<td>23.50.070</td>
<td>Verbal Comment: One speaker opposed the changes to Section 23.50.07. Non-conforming Development, and requested the CUP requirement be retained. The speaker stated that the section was very unclear and confusing. The point was made that all the exceptions allowed would incrementally destroy the county’s shoreline resources, especially those of Lake Whatcom, a shoreline of statewide significance, particularly its drinking water quality. The speaker stated the amendments do not meet the “no net loss” standard required by the Guidelines. The speaker opposes sewage systems in critical areas and wanted to see septic system criteria and standards when such systems are allowed within buffers or critical areas. The speaker said the clause “locating the residence in the least environmentally damaging location” at item N2 was too vague and unworkable.</td>
<td>Remove the proposed allowance and maintain requirements for conditional use permits for work on nonconforming structures. No sewage systems in critical areas. Add specific language to address “least damaging location.”</td>
<td>All conditional use permits (CUP) have been approved so far, extra time and money for CUP is not necessary for these types of projects. At this point adding a dormer to the land side of a non-conforming house requires a CUP. This is not the intention of a CUP. Sewage systems are not allowed in critical areas such as wetlands, streams, waterbodies. See section 23.50.07 (N)(9). Health Department Regulations for OSS development typically include a 100-foot horizontal setback from surface water bodies to ensure no untreated discharge occurs from the system. Impacts to buffer vegetation as a result of OSS would require mitigation to compensate. Under all scenarios, prior to being located within a buffer or critical area, it must be determined that there is no other feasible location outside of said buffer or critical area. Section 23.50.07 only establishes the permitting path for development, the least environmentally damaging location is established through compliance the provisions of the full SMP.</td>
<td>No further Ecology comment.</td>
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<td>03</td>
<td>23.50.070J</td>
<td>Verbal Comment: Another speaker stated that the requirement in item J allowing development only on &quot;a previously impacted impervious surface&quot; rewards property owners that have paved their land and penalizes those that have kept it in a more natural state. The proposal is not protective of critical areas since it allows too many impacts and uses in their buffers. The speaker wanted to know what the &quot;non-planting shoreline enhancements&quot; could be as stated in item J2. The speaker said the non-conforming section was confusing and questioned why so many types of development were being allowed in the critical areas and their buffers.</td>
<td>Do not reward property owners that have paved their property and punish those that have kept it natural. Make the nonconforming section less confusing.</td>
<td>Some areas already have impervious surface limits that Whatcom County Planning and Development Services tracks, i.e. Lake Whatcom watershed. This limits that amount of paving that can legally occur. This provision allows expansion of a non-conforming single family residence without a conditional use permit only if on existing impervious areas, landward, and below a certain size. Non-planting shoreline enhancements could include removal of bulkheads, beach nourishment, etc..</td>
<td>No further Ecology comment.</td>
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<td>04</td>
<td>General</td>
<td>Verbal Comment: Another speaker said the non-conforming section was way too complex. He claimed it took away property rights and that too short of notice was given for a hearing that shouldn't have taken place in August when many people are on vacation.</td>
<td>Make the nonconforming section less confusing.</td>
<td>This section is not as clean as it could be if we had removed the original and wrote from scratch. The proposed amendments actually provide more flexibility than the current regulation as well as expedited review for minor additions. Public meetings and hearings were done throughout many years 2005 - 2008.</td>
<td>No further Ecology comment.</td>
</tr>
<tr>
<td>05</td>
<td>General</td>
<td>Written Comment: One of the overwhelming concerns expressed during the public hearing during the September 9, 2009 public hearing concerned the issue of setbacks. As the Department will recall, the concern was that with such significant setbacks imposed in the Program (generally 150 feet on Marine Shorelines and 100 feet on lakes and rivers), the practical effect of such setbacks would be the creation of nonconforming lots in a vast majority of circumstances. Indeed, you heard from numerous citizens, including other elected officials in the county, that the use of their property would be severely hampered or thwarted entirely through the imposition of these one-size-fits-all setbacks. The proposed amendments do not address this issue in any manner. Rather than taking the opportunity to demonstrate that the Department ever considered the concerns of the public and would work to resolve the apprehension that these people expressed, it appears that these people have been ignored and a very real issue left unresolved by the very people able to address these matters. This course of action is difficult to understand given the amount of time taken by members of the public to appear at the various hearings and draw particular attention to the issue.</td>
<td>Address citizen concerns over 100' and 150' setbacks. Prepare a response that justifies the need for the stated setbacks.</td>
<td>The issue with setbacks and buffers are addressed through changes to the non-conforming section 23.50.07. While the width of the setback/ buffer has not changed, the permit path to develop within the area has. Justification for the setbacks are described in the TMP Background Report, Volume II, Scientific Literature Review.</td>
<td>No further Ecology comment.</td>
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<td>23.50.070</td>
<td>Written Comment: The problem with the amendments concerning nonconforming structures is apparent from a cursory review of section &quot;D,&quot; &quot;E,&quot; and &quot;F.&quot; Section &quot;D&quot; begins by talking about &quot;[n]on-conforming structures&quot; being repaired, maintained, etc. Section &quot;E&quot; begins by talking about &quot;[n]on-conforming structures, other than single-family residences and their appurtenances&quot; and section &quot;F&quot; continues with the &quot;[n]on-conforming structure&quot; language used in section &quot;D.&quot;</td>
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<td>Make the language in section 23.50.07 consistent.</td>
<td>Section E is referring to structures other than single family residences. Sections D, E, and F all apply to different permitting situations, therefore the distinction is justified.</td>
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<td>Change language to be clear that &quot;no feasible alternative&quot; does not apply to single family residences.</td>
<td>Section F applies to all non-conforming structures &quot;damaged or destroyed by fire, explosion, flood, or other casualty.&quot; Subsection F(1) applies only to single family residences, which is a conforming use, F(2) applies only to non-conforming uses. The &quot;no feasible alternative&quot; language only appears in subsection F(2). It is clear that F(2) does not apply to single family residences since it is a conforming use in all shoreline area designations.</td>
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06 23.50.070

07 23.50.070

The public comments on September 9, 2008, clearly stated that the additional requirement that rebuilding a home be allowed only in instances where "no feasible alternative" existed was unacceptable. It was our understanding that staff did not have any real concern in that regard and that removal of the language was appropriate. Here, however, we do not see that language has been drafted in any manner to remove the possible application of feasible alternatives to single family homes. Instead, we are left with a provision that blends the concepts of non-conforming "uses" in a discussion of non-conforming "structures" in such a way that the interpretation, let alone the application, of the provision
is confusing at best and misleading at worst. At a minimum, the language of section "I" must be redrafted to remove any doubt that in instances involving single-family homes, the ability to rebuild is not dependent on a determination that "no feasible alternative" exists. Moreover, the application of no feasible alternatives with no guidance whatsoever as to how that provision or language is to be interpreted appears to be a delegation of legislative authority allowing the Planning Department Director and staff to determine how to implement that provision. Such delegations, without some guidance, are an invitation to arbitrary and capricious enforcement and must be avoided at all costs.

| 08 23.50.070 | Written Comment: Section "I" still contains a reference to the Critical Areas Ordinance (CAO). This section, applicable to single family residences, was supposed to be amended to make compliance easier. Instead, it still contains an inappropriate citation and discussion of the CAO. Moreover, the section now requires a variance application, which is very difficult to successfully obtain, and is incredibly confusing as to how this section applies in relation to sections "J" and "K." | Remove reference to the Critical Areas Ordinance. Remove variance requirement for Section I. Clean up how this section applies to section J and K. | This section references critical areas, ie. Streams, lakes, etc, not the Critical Areas Ordinance. Section I is for expansion that is waterward, into the sideyards, or critical areas. Sections J and K apply to expansions landward. No further Ecology comment. |
| 09 23.50.070.J | Written Comment: Turning our attention of Section "J," there appears a never before proposed limitation on construction that is unique to people involved in real estate matters: limitation on how many times a homeowner is permitted to remodel a home. To state that this provision is surprising is an understatement, but to consider the implications to private property owners is shocking! It is important to note that section "J" applies to expansions that occupy impervious surface already established, that extend opposite to the shoreline, and otherwise comply with the requirements of the Program. Even in these instances, where the impact would be the slightest, the private property owner is required to go through the conditional use permit or variance process just to expand the residence, however slight the expansion may be. Moreover, it is impossible to determine how this regulation will be enforced. Currently, there is no process available to determine whether such a one-time use has been obtained. How is a subsequent property owner to be made aware that further remodeling of a residence is not permitted without some method of tracking the issuance of such permission. More importantly, how is the county to enforce such a limitation on how many times a landowner is permitted to remodel a home. Remove conditional use permit or variance requirement for expansion of a residence. There is no limitation on how many times a landowner can remodel a home, the special allowance from a CUP only applies once. The normal permitting process is available as it has been to the dozens of applicants that were not granted this allowance since July, 2008. No, the amendment proposes that expansions less than 500 sqft not require a conditional use permit, see 29.50.07 (j). This allowance is to be tracked through the Planning and Development Services permit tracking system. | | No further Ecology comment. |
| 10 | 23.50.070 | Written Comment: In the same manner that the one-time remodel language is unworkable, we question the advent and inclusion of the 2,500 square-foot building envelope requirement. This provision changed from the prior provision that guaranteed a building envelope of at least 2,500 feet on smaller lots in the shoreline jurisdiction, but that was changed by the Department of Ecology in its submission to the Council. Although characterized as a "minor" change by staff and members of the Council at the September 9 hearing, the implications of that changes and the ramifications of that unilateral amendment by the Department of Ecology are clear now.

The 2,500 square foot rule is a rule that has crept into building permits on a regular basis for many of our clients. Just this past Fall, the Realtors undertook consideration of a Planning Department decision to implement a 2,500 square foot building envelope on a 10-acre parcel near Maple Falls. When asked to justify the imposition of such a severe restriction based on "suspected" habitat considerations, the Planning Department abruptly changed positions and issued the building permits without requiring the restriction. What is even more troubling is that the Department proceeded in this manner without an attempt to provide a scintilla of justification of either imposing the rule or for their sudden and unexplained course of action when confronted with a requirement not found in any regulation.

Now, likewise, we see the same requirement being imposed in the SMP without any justification. There is no attempt to provide a rationale as to why 2,500 square feet is the "magic number" with respect to shorelines, just as there was no rationale when asked to justify the habitat issue. Despite assurances from the Planning Department to our colleagues at the Building Industry Association that such ad hoc application of one-size-fits-all considerations without any justification would cease, here we see a blatant attempt to change a provision to suite the Department's needs with absolutely no consideration as to the implications for the impact on the private land owner. Such actions are unreasonable. | Remove 2,500 square feet building area requirement for new single family residences on non-conforming lots. | Building area limitations is consistent with existing standards. All residential and commercial zones have building coverage maximums that have been in place since 1988, per Title 20 Zoning code. Additionally, impervious surface and open space requirements for Lake Whatcom, Lake Samish, and Lake Padden are stipulated in Water Resource Protection Overlay District requirements. This section, 23.50.07(N), provides a permitting option, allowing for 2500 sqft of building area without a variance if buffer setbacks cannot be met. New single family residences greater than 2500 square feet can apply for a variance. | No further Ecology comment. |

| 11 | 23.50.070 | Written Comment: Finally, we see the addition of a lot consolidation provision in the proposed amendments. Lot consolidation to the Zoning Code. | Leave lot consolidation to the Zoning Code. | This is consistent with language in the existing SMP under 23.50.07(K), "New single family development on non-

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DRAFT March 10, 2014
consolidation is, simply stated, a zoning matter. The inclusion of such a zoning regulation within the SMP is inappropriate. Moreover, the requirement that owners of contiguous lots that simply do not comply with the zoning but are, nonetheless, legal lots of record, implicates a whole host of property ownership issues that are not related to shoreline protection. The very language of the Shoreline Management Act provides that single-family residences on shorelines are a preferred use and any attempt to limit the ability of a landowner to build on a legal lot of record should be immediately viewed as suspect. This provision must be removed.

conforming lots consisting of property under contiguous ownership (emphasis added) less than 20,000 square feet in size and not subject to landslide hazard areas, alluvial fan hazard areas, or riverine and coastal erosion hazard areas or associated buffers as provided in WCC 15.16.310 may be allowed without a variance in accordance with the following criteria:

existing legal lots without a shoreline variance as long as certain criteria are met, including "no opportunity to consolidate lots under common ownership that will alleviate the nonconformity."

12 General

Written Comment: The ownership of private property is a fundamental right and a foundation of our national heritage. The right of an individual to own property necessarily includes the right to use, develop, and transfer that property as the individual sees fit. That is not to say that the right of property ownership is to be free of all regulations, but the bulk of jurisprudence requires that a governmental entity seeking to regulate property ownership must do so within the police powers of that entity and only after demonstrating a sufficient nexus to the regulatory effort justifying the intrusion.

The proposed regulations proposed for your consideration today were supposed to be clarifications of adopted regulations the public found to be overly burdensome or simply too confusing to be understood. Instead, we find ourselves confronted by language that is not clarified but made to be even more cumbersome and opaque than before. If that were not enough to question the motives of staff in this exercise, there are never before seen regulations proposed here for the first time that are more onerous in several circumstances than the regulations that preceded.

The circumstances surrounding the adoption of the Whatcom County SMP were less than ideal and have left many with the distinct impression that the Department seeks to achieve certain objectives by disregarding the rights of the public to participate in the legislative process and private landowners with respect to their property. Adoption of these proposed amendments, as written and without due consideration of the comments presented by the interested parties that own, develop, and assist in the realization of the goal of property ownership, would be a manifest disservice to the citizens of

Agreed

Reasonable efforts were made by the County and Ecology to inform, involve and encourage public and agency participation throughout the amendment process. The County established a Citizen Advisory Committee to provide input on the proposed changes prior to review by the County Council. A public hearing was held on the proposed amendment package on February 24, 2009. Notice for this hearing was published in the Bellingham Herald on February 14, 2009. Once received by Ecology, notice was distributed to interested parties identified through the County review process. Another public hearing was held on August 3, 2009 and the public comment period was kept open until September 4, 2009. The Ecology notice included a media advisory that was sent to eight local papers, four local radio stations, and broadly covered in may local organizations electronic and traditional outreach mechanisms. This comment matrix summarizes all of the written and oral comments received through the State review process.

The September 9, 2008 hearing was associated with Whatcom County Ordinance 2008-034 that removed the Administrative Procedures from the Shoreline Management Program. Revised Administrative Procedures were later adopted by Whatcom County through Ordinance 2008-044. Neither of
**CLEARANCES**

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**TITLE OF DOCUMENT:**

Resolution amending the Shoreline Management Program

**ATTACHMENTS:**

Potential amendments to the Shoreline Management Program and cover letter to Natural Resource Committee.

**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.)

As requested at the January 27, 2009 Natural Resources Committee meeting, we will be presenting code modifications to the Shoreline Management Program (effective Aug. 8, 2008). The amendments are intended to address public concerns over damage to non-conforming structures, the 2500 sqft buildable area on non-conforming lots, and Department of Ecology changes to the Cherry Point Management Area and definitions. These issues were raised at the Natural Resource Committee on Oct. 21, 2008 through proposed resolution AB2008-351.

The proposed amendments have been posted to Shorelines web site for public review. The amendments have received input from the Citizens Advisory Committee and the Natural Resource Committee in January. Following Natural Resources Committee review and input, this resolution can be introduced at the February 10, 2009 Council meeting.

**COMMITTEE ACTION:**

September 9, 2008 – Further discussion of Ecology changes and hear public comment
October 21, 2008 – Request for amendments pursuant to Ecology changes and public comment
December 9, 2008 – Input on draft amendments
January 27, 2009 – Input on draft amendments

2/10/2009: Discussed and amended and recommended for introduction as amended.

**COUNCIL ACTION:**

2/10/2009: Introduced substitute version
2/24/2009: Action to be scheduled for a later date
3/17/2009: Council Approved 7-0
Res. 2009-020

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:** Res. 2009-020

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.
Shoreline Management Program is pending Department of Ecology approval
A WHATCOM COUNTY RESOLUTION, DECLARING THE COUNCIL’S APPROVAL AND INTENTION TO ADOPT THE FEBRUARY 10, 2009 AMENDMENTS TO WHATCOM COUNTY CODE, TITLE 23 – SHORELINE MANAGEMENT PROGRAM;

WHEREAS, the Washington State Legislature passed the Shoreline Management Act (SMA) in 1971 requiring counties and cities to adopt and administer local shoreline management programs to carry out the provisions of the Act; and

WHEREAS, the Whatcom County Shoreline Management Program (WCC, Title 23 [SMP]) was originally adopted on May 27, 1976 and approved by the Department of Ecology on August 27, 1976; and

WHEREAS, in 1995 the State Legislature directed the Washington State Department of Ecology to update the Shoreline Management Program Guidelines (WAC 173-26), which serve as the standards and guidance that local governments must follow in drafting local shoreline management programs; and

WHEREAS, in December 2003, the Department of Ecology adopted new, revised Shoreline Guidelines (WAC 173-26); and

WHEREAS, pursuant to RCW 90.58.080, Whatcom County was required to review and update its existing 1998 Shoreline Management Program to ensure conformance with the required elements of the 2003 Shoreline Guidelines; and

WHEREAS, Whatcom County passed Ordinance #2007-017 adopting the Shoreline Management Program amendment on February 27, 2007; and

WHEREAS, on August 8, 2008 the State Department of Ecology approved the Whatcom County Shoreline Management Program with changes, per WAC 173-26-120; and,

WHEREAS, significant public comments were heard following Washington State Department of Ecology approval that resulted in the proposed amendments; and
WHEREAS, comments were solicited from federal, state, local, regional and tribal interests in accordance with Chapter 90.58.130 RCW; and

WHEREAS, on November 26, 2008, draft amendments to the County Shoreline Management Program were sent to the Department of Ecology for comment in accordance with WAC 173-26-100(5), a meeting was held on December 19, 2008 to discuss potential amendments, and on Dec. 18 and Jan.2, 2009, Ecology provided the County with comments; and,

WHEREAS, on December 3, 2008, draft amendments to the County Shoreline Management Program were sent to the Department of Community, Trade and Economic Development in accordance with WAC 173-26-100(5) and RCW 36.70A.106; and,

WHEREAS, the County Shoreline Citizens Advisory Committee provided input to the draft amendments at a public meeting on January 7, 2009; and,

WHEREAS, the Whatcom County Natural Resources Committee held public meetings on December 2, 2008, February 10, 2009, and January 27, 2009 to review the proposed shoreline master program amendments; and,

WHEREAS, as a result of these meetings, revisions recommended by the public, commenting agencies and the Department of Ecology were incorporated into the proposed shoreline master program amendments; and,

WHEREAS, the Whatcom County Natural Resource Committee recommended approval of the proposed amendments on Tuesday February 10, 2009; and

WHEREAS, the revised shoreline master program was formally considered by the County Council during a public hearing held on February 24, 2009, as advertised in accordance with WAC 173-26-100; and,

WHEREAS, pursuant to RCW 36.70.390, legal notice was published in the Bellingham Herald on February 14, 2009; and

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

WHEREAS, the County Council directed the Planning Department to send the proposed shoreline master program amendments and supporting materials, consistent with WAC 173-26-110 submittal requirements, to Ecology for its review and adoption.
NOW THEREFORE, BE IT RESOLVED by the Whatcom County Council as follows:

1) The Whatcom County Council approves the February 10, 2009 shoreline master program amendments that are attached to this resolution and incorporated herein by reference, with the understanding that in accordance with RCW 90.58.190(3), the proposed shoreline master program amendments will become effective locally immediately upon formal State Department of Ecology adoption; and,

2) If Ecology adopts the amendments, the Whatcom County Council intends to adopt (and codify), by ordinance, the subject shoreline master program amendments.

APPROVED this 17th day of March, 2009.

[Signatures]

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Seth Fleetwood, Council Chair

Civil Deputy Prosecutor
4. Coastal Zone Management Act of 1972, as amended
5. Federal Water Pollution Control Act, as amended
7. Clean Air Act, as amended
8. Endangered Species Act (ESA)

23.50.04 Application within Federal Reserves

A. The shoreline permit procedures, policies and regulations established in this Program shall apply to development or use of shorelines of the state within National Forests, National Parks and National Recreation Areas by persons other than federal agencies.

B. As recognized by RCW 90.58.350, the provisions of this Program shall not apply to lands held in trust by the United States for Indian Nations, tribes or individuals.

23.50.05 Program Effects on Property Values

A. As provided for in RCW 90.58.290, the restrictions imposed upon use of real property through implementation of policies and regulations of the Act and this Program shall be duly considered by the County Assessor and the County Board of Equalization in establishing the fair market value of such properties.

B. Designation of private property as a Natural or Conservancy shoreline area pursuant to Chapter 3 shall qualify the property as meeting the definition of "open space land" under the Open Space Taxation Act of 1970, as amended (RCW 84.34.020(1)) and shall qualify such land for application for Open Space Taxation in accordance with RCW 84.34.37 and WCC 3.28.

23.50.06 Hazardous Substance Remedial Actions

The procedural requirements of RCW 90.58 shall not apply to a project for which a consent decree, order, or agreed order has been issued pursuant to RCW 70.105D or to the Department of Ecology when it conducts a remedial action under RCW 70.105D. The Department of Ecology shall, in consultation with the Administrator, assure that such projects comply with the substantive requirements of RCW 90.58, WAC 173-26 and this Program.

23.50.07 Non-conforming Development

The following provisions shall apply to lawfully established uses, buildings and/or structures that do not meet the specific standards of this Program.

A. The lawfully established use of any building, structure, land or premises existing on the effective date of initial adoption of the Program (August 27, 1976), or any subsequent amendment thereto or authorized under a permit or approval issued, or otherwise vested, prior to the effective date of initial adoption of the Program or any subsequent amendment thereafter shall be considered nonconforming and may be continued, subject to the provisions of this section; provided that, agricultural activities shall conform to WCC 16.16.290; provided further that, bulkheads shall conform to SMP 23.100.13.
B. An existing use designated as a conditional use that lawfully existed prior to the adoption of this Program or the adoption of an applicable amendment hereto and which has not obtained a conditional use permit shall be considered a legal non-conforming use and may be continued subject to the provisions of this section without obtaining a conditional use permit.

C. A structure for which a variance has been issued but which does not comply with applicable requirements of this Program as amended shall be considered a legal non-conforming structure and the requirements of this section shall apply.

D. Non-conforming structures may be maintained, repaired, renovated, or remodeled to the extent that non-conformance with the standards and regulations of this Program is not increased, provided that a non-conforming development that is moved any distance must be brought into conformance with this Program and the Act; provided further, that as a conditional use a non-conforming dock may be modified, reoriented or altered within the same general location to be more consistent with the provisions of this SMP.

E. Non-conforming structures, other than single family residences and their appurtenances, that are expanded or enlarged must obtain a variance or be brought into conformance with this Program and the Act; provided that, non-conforming single family residences may be expanded without a variance where the provisions of SMP 23.50.07.1 apply; and provided further, that non-conforming structures with conforming uses within commercial or mixed-use developments may be expanded or enlarged within the existing building footprint as a conditional use pursuant to Ch SMP 23.100.05.B.1(e).

F. Non-conforming structures, (including accessory structures) that are damaged or destroyed by fire, explosion, flood, or other casualty may be restored or replaced in kind if there is no feasible alternative that allows for compliance with the provisions of this Program; provided that, the following are met:

1. The single family residence or accessory structure to be restored or replaced, is not in a hazardous area, and the reconstruction permit process is commenced within eighteen (18) months of the date of such damage; and the reconstruction does not expand, enlarge, or otherwise increase the non-conformity, except as provided for in subsection (H) and (I) below; provided that, a structure can be replaced or restored in a coastal high hazard area subject to all applicable Whatcom County building and development codes.

2. Non-conforming uses can be replaced in kind if there is no feasible alternative that allows for compliance with the provisions of this Program, and the permit process is commenced within (18) months of the date of such damage, and the reconstruction does not expand, enlarge, or otherwise increase the non-conformity, except as provided for in subsection (E) above or (H) and (I) below.

G. If a non-agricultural non-conforming use is intentionally abandoned for a period of twelve (12) months or more, then any future use of the non-conforming building, land or premises shall be consistent with the provisions of this Program.

H. Replacement of any non-conforming structures or buildings or portions thereof within the Aquatic shoreline area shall comply with Program requirements for materials that come in contact with the water pursuant to SMP 23.90.04.B.5; provided that, replacement of
existing wood pilings with chemically treated wood is allowed for maintenance purposes where use of a different material such as steel or concrete would result in unreasonable or unsafe structural complications; further provided that, where such replacement exceeds twenty percent (20%) of the existing pilings over a ten (10) year period, such pilings shall conform to the standard provisions of this section.

I. Enlargement or expansion of single family residences by the addition of space to the main structure or by the addition of normal appurtenances as defined in Chapter 11, that extend waterward of the existing primary residential foundation walls, further into a critical area (excluding the buffers of the critical areas), further into the minimum required side yard setback, or that increase the structure height above the limits established by this Program shall require a variance; provided that, expansion of non-conforming single family residences other than that specified in this section (I), may be expanded without a variance where the provisions of SMP 23.50.07(J) or (K) apply.

that would increase the non-conformity and/or encroach further into areas where new structures or developments would not now be allowed under the Program may be approved by conditional use permit if all of the following criteria are met:

1. The structure must be located landward of the ordinary high water mark.

2. The enlargement, expansion or addition shall not extend either further waterward than the existing primary residential structure (not appurtenance), further into the minimum side yard setback, or further into any critical area established by WCC 46.16 than the existing structure. Encroachments that extend waterward of the existing residential foundation walls or further into a critical area, or the minimum required side yard setback require a variance.

3. The area between the non-conforming structure and the shoreline and/or critical area shall meet the vegetation conservation standards of SMP 23.90.06.

4. The remodel or expansion will not cause adverse impacts to shoreline ecological functions and/or processes.

I. The enlargement or expansion of single family residences by the addition of space to the exterior of the main structure or normal appurtenances is permitted without a conditional use permit or variance once during the life of the structure. The structure shall be located landward of the ordinary high water mark, and any expansion of the footprint is landward of the existing building footprint, (not in the side yard) and any vertical expansion is within the existing building footprint; provided that the following conditions are met:

1. Enlargements, expansions or additions that increase the existing primary structure, or normal appurtenances by up to 250 square feet of gross floor area shall be allowed provided the expansion or addition will occur on a previously impacted impervious surface and the expansion is not waterward of the common-line setback as defined in appendix F.

2. Enlargements, expansions or additions that increase the total footprint of the existing primary structure, or normal appurtenances by 250 - 500 square feet of gross floor area shall be allowed provided that the addition will occur on a previously impacted impervious surface and the expansion is not waterward of
the common-line setback as defined in appendix F; further provided, that the shoreline is enhanced by the equivalent area of building footprint that is expanded. If enhanced through planting, the Administrator shall require a vegetation management plan consistent with 23.90.06.B(2).

K. The Administrator shall require a conditional use permit if the enlargement or expansion of single family residences by the addition of space to the exterior of the main structure, or normal appurtenances is in excess of those allowances provided in SMP 23.50.07.J.

L. A structure that is being or has been used for a non-conforming use may be used for a different non-conforming use only upon the approval of a conditional use permit. In addition to the conditional use criteria of SMP 23.60.04, before approving a conditional use for a change in non-conforming use, the Hearing Examiner shall also find that:

1. No reasonable alternative conforming use is practical because of the configuration of the structure and/or the property;

2. The proposed use will be at least as consistent with the policies and provisions of the Act and this Program and as compatible with the uses in the area as the preexisting use;

3. The use or activity is enlarged, intensified, increased or altered only to the minimum amount necessary to achieve the intended functional purpose;

4. The structure(s) associated with the non-conforming use shall not be expanded in a manner that increases the extent of the non-conformity including encroachment into areas, such as setbacks, and any critical areas and/or associated buffers established by WCC 16.16, where new structures, development or use would not be allowed;

5. The vegetation conservation standards of SMP 23.90.06.B.3 are met;

6. The change in use, remodel or expansion will not create adverse impacts to shoreline ecological functions and/or processes; and

7. Uses which are specifically prohibited or which would thwart the intent of the Act or this Program shall not be authorized.

M. Conforming lots have a building area of more than 2,500 square feet available for a single family residence and normal appurtenances and unrestricted by setbacks or buffers from shorelines shall comply with the provisions of this Program.

N. Where permitted according to shoreline area designations (SMP Table 23.100.01), new single family development on any legal lot in shoreline jurisdiction that is nonconforming with respect to the required shoreline buffer standards may be allowed without a shoreline variance when all of the following criteria are met:

1. The depth of the lot (the distance from the ordinary high water mark to the inside edge of the frontage setback) is equal to or less than the standard buffer as indicated in WCC 16.16; and,
2. The building area is twenty-five hundred (2,500) square feet or less, provided that appropriate measures are taken to mitigate all adverse impacts, including but not limited to locating the residence in the least environmentally damaging location relative to the shoreline. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except on-site sewage systems), and landscaping. Building area does not include the sideyard and frontage setback provided that administrative reductions to sideyard and/or frontage setbacks shall be pursued when doing so will not create a hazardous condition or a condition that is inconsistent with this Program and Title 20; and,
3. All single family residences approved under this section shall not extend waterward of the common-line setback as measured in accordance with Appendix F; and,
4. The lot is not subject to landslide hazard areas, alluvial fan hazard areas, or riverine and coastal erosion hazard areas or associated buffers as provided in WCC 16.16.310; and,
5. The nonconforming lot was created prior to August 8, 2008; and,
6. There is no opportunity to consolidate lots under common ownership that will alleviate the nonconformity; and,
7. The area between the structure and the shoreline shall comply with the vegetation conservation standards of SMP 23.90.06.B.3; and,
8. Development may not take place waterward of the ordinary high water mark; and,
9. On-site sewage systems may be allowed within critical areas and their buffers, excluding actual water bodies such as wetlands, streams and lakes, outside of the building area specified above, subject to specific criteria in WCC 16.16.

K. New single-family development on non-conforming lots consisting of property under contiguous ownership less than 20,000 square feet in size and not subject to landslide hazard areas, alluvial fan hazard areas, or riverine and coastal erosion hazard areas or associated buffers as provided in WCC 16.16.310 may be allowed without a variance in accordance with the following criteria:

1. Non-conforming lots with a building area of 2,500 square feet or more available for a single-family residence and normal appurtenances and unrestricted by setbacks or buffers from shorelines or critical areas shall comply with the provisions of this Program. The building area means the entire area that will be disturbed to construct the home, normal appurtenances (except drainfields), and landscaping.

2. Non-conforming lots that do not meet the requirement of subsection K.1 above shall provide the maximum setback and buffer dimension feasible while providing for a building area of not more than 2,500 square feet on the portion of the lot farthest from the required setback or buffer, provided that consideration shall be given to view impacts and all single-family residences approved under this section shall not extend waterward of the common-line setback as measured in accordance with Appendix F.

3. The area between the structure and the shoreline and/or critical area shall comply with the vegetation conservation standards of SMP 23.90.06.B.3.

4. Development may not take place waterward of the ordinary high water mark.

5. Facilities such as a conventional drainfield system may be allowed within critical areas or their buffers, except wetlands and buffers, outside of the building area specified above, subject to specific criteria in WCC 16.16.
O. Redevelopment of non-conforming right-of-ways and associated transportation structures, such as railroad trestles, may be permitted for purposes of facilitating the development of public trails and/or public shoreline access; provided that, such redevelopment shall be otherwise consistent with the provisions of this Program, including but not limited to the provisions for public access and no net loss of shoreline ecological functions and processes, except as provided for in subsections (E) and (H) above.

23.50.08 Property Rights

A. Decisions on shoreline permits and/or approvals shall recognize all relevant constitutional and other legal limitations on the regulation of private property. Findings shall assure that conditions imposed relate to the governmental authority and responsibility to protect the public health, safety, and welfare, are consistent with the purposes of the Act, and are roughly proportional to the expected impact.

B. This Program does not alter existing law on access to or trespass on private property and does not give the general public any right to enter private property without the owner's permission.

C. Consistent with Whatcom County's high standard of staff conduct, County staff observe all applicable Federal and State laws regarding entry onto privately owned property.
### SMP Table 23.100.01 Shoreline Use by Area Designation(a)

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<th>Urban Resort</th>
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a. The County shall require professionally engineered design of any proposed flood control works or instream structure.

b. The design of all dams and the suitability of the proposed site for dam construction shall be certified by a professional engineer licensed in the State of Washington. The professional design shall include a maintenance schedule.

c. For all dams that are not regulated by either the Federal Energy Regulatory Commission licensing procedures, or the State Department of Ecology reservoir permit requirements, a maintenance agreement and construction bond for one-hundred-fifty percent (150%) of the cost of the structure shall be filed with the Director of the Public Works Department prior to construction. The maintenance agreement shall specify who is responsible for maintenance, shall incorporate the maintenance schedule specified by the design engineer, shall require annual inspections by a Civil Engineer licensed in the State of Washington and shall stipulate abandonment procedures which shall include, where appropriate, provisions for site restoration.

d. No flood control works or instream structure may commence without the developer having obtained all applicable federal, state, and local permits and approvals, including but not limited to an HPA from the State Department of Fish and Wildlife.

23.100.06.C Flood Control Works and Instream Structures – Shoreline Area Regulations

1. Urban: Flood control works and instream structures are permitted subject to policies and regulations of this Program.

2. Urban Resort: Flood control works and instream structures are permitted subject to policies and regulations of this Program.

3. Urban Conservancy: Flood control works and instream structures are permitted subject to policies and regulations of this Program; provided that, channelization or dams for flood control are prohibited.

4. Shoreline Residential: Flood control works and instream structures are permitted subject to policies and regulations of this Program.

5. Rural: Flood control works and instream structures are permitted subject to policies and regulations of this Program; provided that, channelization or dams for flood control may be permitted as a conditional use.

6. Resource: Flood control works and instream structures are permitted subject to policies and regulations of this Program; provided that, channelization or dams for flood control may be permitted as a conditional use.

7. Conservancy: Flood control works and instream structures are permitted as a conditional use subject to policies and regulations; provided that, channelization or dams for flood control are prohibited.

8. Natural: Flood control works and instream structures are prohibited except for normal maintenance and repair.
Facilities that allow for multiple use of piers, cargo handling, storage, parking and other accessory facilities are encouraged.

23.100.17.A.4 Public Access

a. Where appropriate, industrial and port development within the Cherry Point Management Area should provide public beach and shoreline access in a manner that does not cause interference with facility operations or present hazards to life and property. This may be accomplished through individual action or by joint, coordinated action with other developers and landowners, for example, by setting aside a common public access area.

b. Special emphasis should be given to providing public beach and shoreline access for recreational opportunities including but not limited to crabbing, small craft launching, surf fishing, picnicking, clamming, and beach walking.

c. Public access within the Cherry Point Management Area should be consistent with the Whatcom County Parks and Recreation Open Space Plan.

23.100.17.A.5 Shoreline Ecological Functions and Processes

In recognition of the diverse and vital ecological resources in the Cherry Point Management Area, consideration of probable effects of all development proposals on shoreline ecological functions and processes should be assessed with the other long term statewide interests.—New port development that requires dredge and fill should not be permitted in the Cherry Point Management Area due to potential adverse effects on ecological functions, including fish and shellfish habitat and geo-hydraulic processes.

23.100.17.A.6 Aesthetics

All development should be designed to avoid or minimize negative visual impacts on the scenic character of the area and to ensure visual compatibility with adjacent non-industrial zoned properties.

23.100.17.A.7 Site Development

All development should be constructed and operated in a manner that while permitting water-dependent uses, also protects shoreline resources, their ecological functions and processes, and that incorporates the following:

a. Low impact development approaches to avoid or minimize adverse impact to topography, vegetation, water quality, fish and wildlife habitat, and other natural site conditions;

b. Adequate temporary and permanent management measures to control erosion and sediment impacts during construction and operation; and

c. Adequate stormwater management facilities.

23.100.17.B Cherry Point Management Area – Regulations
23.100.17.B.3 Critical Areas

In addition to meeting the provisions of Ch 23.90.03 Ecological Protection and Critical Areas, development and alteration shall not be located or expanded within critical areas designated pursuant to WCC 16.16 except where the site is approved for water-dependent use, and the following are met:

a. Mitigation to achieve no net loss of ecological functions and processes shall be conducted in accordance with SMP 23.90.03.

b. Development and alteration shall not be allowed in wetlands in the backshore area. Upland development shall demonstrate that changes in local hydrology will not decrease the viability of the wetland environment nor degrade the existing water quality within the wetland.

c. The minimum required setback from the OHWM for all industrial and port facilities, including development components, which do not require a water's edge or water surface location shall be 150 feet; provided that, bluffs and banks greater than 10 feet in height and sloping greater than thirty percent (30%) and wetland shorelines shall have such setbacks measured from the crest of the bank or the edge of the wetland in addition to the OHWM.

d. Development and alteration other than recreation development for public and quasi-public shoreline access is prohibited on the accretion shoreforms identified on the map in Appendix C, subject to the regulations in this section and consistent with the Conservancy and Aquatic Shoreline Area Designation policies and regulations of Chapters 9 and 10; provided that lawfully established uses or developments may be maintained subject to the provisions of SMP 23.50.07.

23.100.17.B.4 Location and Design

a. Piers

(1) Piers shall be designed to accommodate only the necessary and intrinsic activities associated with the movement of material and cargo from land to water and water to land. The length of piers shall not extend beyond that which is necessary to accommodate the draft of the vessels intending to use the facility. Due to the environmental sensitivity of the area, Whatcom County shall limit the number of piers to one (1) pier, in addition to those in operation or approved as of January 1, 1998.

(2) Piers shall be designed to minimize interference in the intertidal zone and adverse impacts to fish and wildlife habitats.

(3) Piers shall be designed to minimize impacts on steep shoreline bluffs.

(4) All pilings in contact with water shall be constructed of materials such as concrete, steel, or other materials that will not adversely affect water quality or aquatic plants or animals. Materials used for decking or other structural components shall be approved by applicable state agencies for contact with water to avoid discharge of pollutants from wave splash, rain, or runoff. Wood treated with creosote, copper
CHAPTER 11 – DEFINITIONS

influenced geo-hydraulic processes, presence of a surface connection including through a culvert or tide gate, location in part or whole within the floodplain of a shoreline, periodic inundation, and/or hydraulic continuity.

25. "Average Grade Level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property on that part of the lot to be occupied by the building or structure as measured by averaging the elevations at the center of all exterior walls of the proposed structure.

B

1. "Backshore" means a zone of accretion or erosion lying landward of the average high-tide mark, wetted by tides during storm events.

2. "Barrier Beach" means a linear accretion shoreform of sand and/or gravel berm(s) accreted waterward of bluffs, bays, marshes or estuaries by littoral drift; the berm acts as a natural dike and seawall to its backshore or marsh hinterland.

3. "Beach Nourishment" means a restoration or shoreline stabilization activity in which selected beach material is deposited at one or several locations in the updrift portion of a drift sector. The material is then naturally transported by waves or currents downdrift to stabilize or restore accretion shoreforms and other berms, which may be eroding due to artificial obstructions in the shore process corridor.

4. "Bedlands" means those submerged lands below the line of extreme low tide in marine waters and below the OHWM line of navigability of navigable –of–lakes and rivers. Where the line of navigability has not been established, bedlands would be those submerged lands below the OHWM in lakes and rivers.

5. "Bedrock" means a general term for rock, typically hard, consolidated geologic material that underlies soil or other unconsolidated, superficial material or is exposed at the surface.

6. "Berm" or "Protective Berm " means one or several accreted linear mounds of sand and gravel generally paralleling the shore at or landward of OHWM; berms are normally stable because of material size or vegetation, and are naturally formed by littoral drift.

7. "Best Management Practices" means conservation practices or systems of practices and management measures that:
   a. Control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxins, and sediment;
   b. Minimize adverse impacts to surface water and ground water flow, circulation patterns, and to the chemical, physical, and biological characteristics of waters, wetlands, and other fish and wildlife habitats;
   c. Control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw material.

8. "Bioengineered Shoreline Stabilization" means biostructural and biotechnical alternatives to hardened structures (bulkheads, walls) for protecting slopes or other erosive features.
Bioengineered stabilization uses vegetation, geotextiles, geosynthetics and similar materials. An example is Vegetated Reinforced Soil Slopes (VRSS), which uses vegetation arranged and embedded in the ground to prevent shallow mass-movement and surficial erosion.

9. "Boat Lift" means an in-water structure used for the dry berthing of vessels above the water level and lowering of vessels into the water. A boat lift as herein defined is used to berth and launch a single vessel, suspended over the water's surface. A boat lift is generally a manufactured unit without a canopy cover and may be placed in the water adjacent to a dock or as stand-alone structure. A boat lift may be designed either for boats or personal watercraft. A boat lift is to be differentiated from a hoist or crane used for the launching of vessels. A boat lift with a canopy cover shall be considered a covered moorage for the purposes of this Program.

10. "Bog" means a type of wetland dominated by mosses that form peat. Bogs are very acidic, nutrient poor systems, fed by precipitation rather than surface inflow, with specially adapted plant communities.

11. "Breakwater" means an offshore structure that is generally built parallel to shore that may or may not be connected to land, and may be floating or stationary. Their primary purpose is to protect harbors, moorages and navigation activity from wave and wind action by creating stillwater areas along shore. A secondary purpose is to protect shorelines from wave caused erosion.

12. "Buffer (buffer zone)" means the area adjacent to a shoreline and/or critical area that separates and protects the area from adverse impacts associated with adjacent land uses.

13. "Building" means any structure used or intended for supporting or sheltering any use or occupancy as defined in the International Building Code.

14. "Building Area" means the entire area that will be disturbed to construct the home, normal appurtenances (except on-site sewage systems), and landscaping.

14. "Building footprint" means for the purposes of this program, the ground area contained by the exterior walls of a building.

15. "Bulkhead" means a wall-like structure such as a revetment or seawall that is placed parallel to shore primarily for retaining uplands and fills prone to sliding or sheet erosion, and to protect uplands and fills from erosion by wave action.

1. "Channel Migration Zone" means the area along a river or stream within which the channel can reasonably be expected to migrate over time as a result of normally occurring processes. It encompasses that area of current and historic lateral stream channel movement that is subject to erosion, bank destabilization, rapid stream incision, and/or channel shifting, as well as adjacent areas that are susceptible to channel erosion. There are three components of the channel migration zone: (1) the Historical Migration Zone (HMZ)—the collective area the channel occupied in the historical record; (2) the Avulsion Hazard Zone (AHZ)—the area not included in the HMZ that is at risk of avulsion over the timeline of the CMZ; and (3) the Erosion Hazard Area (EHA)—the area
1. "Dam" means a barrier across a stream or river to confine or regulate flow or raise water levels for purposes such as flood or irrigation water storage, erosion control, power generation, or collection of sediment or debris.

2. "Debris Flow" means a moving mass of rock fragments, soil, and mud; more than half of the particles being larger than sand size; a general term that describes a mass movement of sediment mixed with water and air that flows readily on low slopes.

3. "Development" means a use consisting of the construction or exterior alteration of structures, dredging, drilling, dumping, filling; removal of any sand, gravel or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature that interferes with the normal public use of the surface of the waters overlying lands subject to the Act at any state of water level. This term may include activities related to subdivision and short subdivisions; binding site plans; planned unit developments; clearing activity; fill and grade work; building or construction; and activities that are exempt from the substantial development permit process or that require a shoreline variance or conditional use.

4. "Dike" means an artificial embankment placed at a stream mouth or delta area to hold back sea water for purposes of creating and/or protecting arable land from flooding.

5. "Dock" means all platform structures or anchored devices in or floating upon water bodies to provide moorage for pleasure craft or landing for water-dependent recreation including, but not limited to floats, swim floats, float plane moorages, and water ski jumps. Excluded are launch ramps.

6. "Drainage Ditch" means an artificially created watercourse constructed to drain surface or ground water. Ditches are graded (man-made), channels installed to collect and convey runoff from fields and roadways. Ditches may include irrigation ditches, waste ways, drains, outfalls, operational spillways, channels, stormwater runoff facilities or other wholly artificial watercourses, except those that directly result from the modification to a natural watercourse. Ditched channels that support fish are considered to be streams.

7. "Dredge Spoil" means the material removed by dredging.

8. "Dredging" means the removal, displacement, and disposal of unconsolidated earth material such as silt, sand, gravel, or other submerged material from the bottom of water bodies or from wetlands; maintenance dredging and other support activities are included in this definition.

9. "Drift Sector" or "Drift Cell" means a particular reach of marine shore in which littoral drift may occur without significant interruption, and which contains any and all natural sources of such drift, and also any accretion shoreform(s) accreted by such drift. Each normal drift sector contains these shore process elements: feeder bluff or estuary, driftway, littoral drift, and accretion shoreform.

10. "Driftway" means that portion of the marine shore process corridor, primarily the upper foreshore, through which sand and gravel are transported by littoral drift. The driftway is the essential component between the feeder bluff(s) and accretion shoreform(s) of an integral drift sector. Driftways are also characterized by intermittent, narrow berm beaches.
6. "Non-conforming lot" means, for the purposes of Ch 23.50.07.K and Ch 23.90.06.B.3, a vacant lot under contiguous ownership and with less than a total of 20,000 square feet, including within shoreline jurisdiction, that was lawfully established prior to the effective date of this Program (August 27, 1976) or amendments hereto, but which does not conform to the setback or buffer standards of this Program.

7. "Non-conforming Use", "Non-conforming Development" or "Non-conforming Structure" means a shoreline use, development or structure that was lawfully constructed or established prior to the effective date of this Program (August 27, 1976) or amendments hereto, but which does not conform to present regulations or standards of the Program.

8. "Nonwater-oriented Use" means uses that are not water-dependent, water-related or water-enjoyment. Nonwater-oriented uses have little or no relationship to the shoreline and are not considered priority uses under the Shoreline Management Act except single-family residences. Any use that does not meet the definition of water-dependent, water-related or water-enjoyment is classified as nonwater-oriented.

1. "Off-premise Sign" means a sign situated on premises other than those premises to which the sign's message is related.

2. "Oil" means petroleum or any petroleum product in liquid, semi-liquid, or gaseous form including, but not limited to, crude oil, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredging spoil.

3. "Ongoing Agriculture" means those activities conducted on lands defined in RCW 84.34.020(2), and those activities involved in the production of crops and livestock, including, but not limited to, operation and maintenance of existing farm and stock ponds or drainage ditches, irrigation systems, changes between agricultural activities, and maintenance or repair of existing serviceable structures and facilities. Activities that bring an area into agricultural use are not part of an ongoing activity. An operation ceases to be ongoing when the area on which it was conducted has been converted to a non-agricultural use, or has lain idle for more than five (5) consecutive years unless that idle land is registered in a federal or state soils conservation program. Forest practices are not included in this definition.

4. "On-premise Sign" means a sign situated on the premises to which the sign's message is related.

5. "Open Space" means any parcel or area of land or water not covered by structures, hard surfacing, parking areas and other impervious surfaces except for pedestrian or bicycle pathways, or where otherwise provided by this title or other county ordinance and set aside, dedicated, for active or passive recreation, visual enjoyment, or critical area development buffers as established in WCC 16.16. Submerged lands and/or tidelands within the boundaries of any waterfront parcel that are located waterward of the ordinary high water mark shall not be used in open space calculations. Required open space percentages, as applicable, are not to be used for purposes of calculating total impervious surface.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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Informational briefing from Whatcom County businesses

**ATTACHMENTS:**

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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.)

Presentations are being hosted quarterly this year by the Finance & Administrative Services Committee to gain greater awareness and understanding of a variety of Whatcom County businesses and their impact on our local economy. Presentations from each business representative will be 10-15 minutes in length and have been scheduled and facilitated with the assistance of the Port of Bellingham Economic Development Division.

3/25/14 features: Gary Graham, Shuttle Systems, Drew Zogby, Alpha Technologies, and lan Rae, Chuckanut Builders
6/17/14 features: David Plenkovich of Lynden Door, lan Rae of Chuckanut Builders and Peter Gruman of Accelitec.

**COMMITTEE ACTION:**

3/25/2014: Presented
6/17/2014: Presented

**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](http://www.co.whatcom.wa.us/council)
### WHATCOM COUNTY COUNCIL AGENDA BILL

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<tr>
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<th>Agenda Date</th>
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<tr>
<td>Executive:</td>
<td>[Signature]</td>
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**TITLE OF DOCUMENT:**
Discussion of outreach options for the update of the Comprehensive Solid and Hazardous Waste Management Plan

**ATTACHMENTS:**
- Outreach options memo

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

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

Per Council request, discussion of public outreach options for the update of the County’s Comprehensive Solid and Hazardous Waste Management Plan.

**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: Honorable Members of the Whatcom County Council

THROUGH: Frank M. Abart, Director

FROM: Gary S. Stoyka, Natural Resources Program Manager
Debbie Bailey, Solid Waste Coordinator

RE: Community Involvement Options
Comprehensive Solid and Hazardous Waste Management Plan Update

Date: August 27, 2014

At the County Council meeting on July 22nd, the Council approved a contract with Maul, Foster & Alongi, Inc. (MFA) to update the Whatcom County Comprehensive Solid and Hazardous Waste Management Plan. There was concern expressed by some council members that there was not sufficient outreach included in the contract presented. The Council approved the contract, but requested that staff come back to Council with options for increasing public outreach. This memorandum presents a summary of outreach options for the Council to consider and associated costs. The County Executive has instructed staff to proceed with Options Nos. 1 and 2 since the costs are minimal. If Council chooses to move forward with any of the other options, staff would return with an amendment to the MFA contract.

1. PUBLIC ADVERTISEMENT OF SWAC MEETINGS
This option consists of publishing in the county’s newspaper of record public notice of the date, time, location and/or agenda associated with each meeting of the County’s Solid Waste Advisory Committee (SWAC) that will include consideration of the Plan Update. It is assumed that the County can complete this option with minimal assistance from MFA.

MFA Cost to Complete: $0 Whatcom County’s Cost: $240 – 2”, 3 newspapers, per run

2. POST PLAN UPDATE MATERIALS ON COUNTY WEBSITE
Materials generated throughout the Plan Update, including, but not limited to, SWAC meeting agendas and minutes, MFA deliverables, and draft-revision chapters will be posted on the County’s existing Solid Waste Division web page. It is assumed that the County can complete this option with minimal assistance from MFA.

MFA Cost to Complete: $0 Whatcom County’s Cost: $0

3. PLAN UPDATE-SPECIFIC WEBSITE
MFA would create a publically accessible Plan Update-specific website that provides an overview of the project and presents materials generated throughout the process. The website would be created in a user friendly format that provides a “one-stop-shop” for County staff, elected and appointed officials, stakeholders and the general public to follow the development of materials as they become available. The website could also be setup to receive comments to review and potentially consider in the Plan update process. The website fee is included.
MFA Cost to Complete: $5,250  Whatcom County’s Cost:  $0

4. FACT SHEET MAILER
MFA would create a one-page fact sheet that provides an overview of the Plan Update goals, objectives and process, and provides information on how the public may provide input into the process. The fact sheet would be created in a visually eye-catching manner to increase the potential for its review by recipients. It is assumed that the County would complete all production-related activities (to limit costs through taking advantage of any existing document production contracts it may have and by removing consultant mark-up), and coordinate inclusion of the fact sheet with service provider billings (per the SWAC meeting, the service providers would be willing to include the fact sheet with their billings).

MFA Cost to Complete: $1,965  Whatcom County’s Cost:  $2,500

5. WEB-SURVEY
MFA would develop and administer a web-survey of County solid waste customers near the outset of the Plan Update. The survey would be hosted through a web-based host (such as SurveyMonkey; www.surveymonkey.com). Questions would be developed that ascertain a baseline of overall customer understanding of current services, as well as identify key priorities customers are willing to invest in. Customers would be solicited to participate in the survey through working with service providers (including reference to the survey in the fact sheet mailer, if it is also selected). Following completion of the survey, MFA would create a memorandum summarizing the findings of the survey and identifying key service modification considerations for inclusion in the Plan Update. Because this survey would rely on the responsiveness of customers, it should be considered non-statistically-based.

MFA Cost to Complete: $7,035  Whatcom County’s Cost:  $0

6. COMMUNITY OPEN HOUSE
As the largest user category of the County’s solid waste system, input from County residents on their perceived value of the existing solid waste system is an important component of the process. MFA would develop materials for and host community open houses (one or two) at a facility provided by the County. The first open house would inform the community of existing conditions and provide an overview of the Plan Update process, as well as solicit information regarding perceived service deficiencies/priorities. The second open house would be held later in the Plan Update process and provide the community with the status of the Update, as well as solicit additional feedback prior to Plan finalization.

MFA Cost to Complete: $9,995.00 per open house  Whatcom County’s Cost:  $0

7. SOLID WASTE STAKEHOLDER CHARRETTE
MFA would facilitate charrette, up to four hours in length, with representatives from the solid waste, development, and industrial communities to receive feedback on the current waste system and to solicit information regarding specific industrial needs and opportunities for increased waste diversion or reuse. MFA would work with the County, SWAC, SWAC subcommittee, service providers, and city representatives to develop an understanding of developers, contractors, and industrial facilities, who may be the largest individual users of the solid waste system, and to specifically encourage representatives to attend the event. Information gathered at the charrette would be used in updating the Plan description of the existing system, as well as for identifying priorities for solid waste, construction debris generators, and industrial users.

MFA Cost to Complete: $13,225  Whatcom County’s Cost:  $0
Please note that the cost of the charrette may be reduced by approximately $5,000 if selected in combination with a community open house, as much of the materials preparation would be duplicative.
TITLE OF DOCUMENT:
Amend contract with Van Ness Feldman LLP for outside legal representation

ATTACHMENTS:
Contract

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 amendment raises the maximum consideration for this agreement by $10,000 for a total contract amount not to exceed $140,000. All other terms and conditions of the original contract remain the same.

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Whatcom County Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Whatcom County Prosecutor</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Van Ness Feldman, LLP, Attorneys at Law</td>
</tr>
</tbody>
</table>

**Is this a New Contract?**
Yes _X_ No ___
If yes, previous number(s): 201212020

**Is this a grant agreement?**
Yes _X_ No ___
If yes, grantor agency contract number(s) ____________________________
CFDA number ____________________________

**Is this contract grant funded?**
Yes _X_ No ___
If yes, associated Whatcom County grant contract number(s) ____________________________

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

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

If yes, indicate qualified exclusion(s) below:

- _X_ Contract less than $100,000.
- _X_ Professional services agreement for certified/licensed professional
- ___ Work is for less than 120 days
- ___ Contract for Commercial off the shelf items (COTS)
- ___ Interlocal Agreement (between Govt.)
- ___ Public Works Dept. - Local Agency/Federally Funded FHWA
- ___ Public Works Dept. - Federal Funds
- ___ Other: ____________________________

**Contract Amount:**
(sum of orig contract amt and any prior amendments)

$ 130,000.00

**This Amendment Amount:**

$ 10,000.00

**Total Amended Amount:**

$ 140,000.00

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

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

The Contractor shall represent Whatcom County and assist in the preparation of its legal defense of Ordinance No. 2012-032 in Growth Management Hearings Board case number 12-2-0013. To the extent any of the issues raised in case number 12-2-0013 are addressed in the Board’s compliance order in case number 11-2-00120c, Contractor’s scope of work will additionally include assisting the County in the preparation of its legal defense on those issues in case number 11-2-0010c. In addition, the Contractor shall represent Whatcom County and assist in the appeals of Growth Management Hearings Board case nos. 11-2-0010c and 12-2-0013.

**Term of Contract:** One Year

**Expiration Date:** 12/14/14

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

1. Prepared by: KNF Date 8/15/14 [electronic]
2. Attorney reviewed: KNF Date 8/15/14 [electronic]
3. AS Finance reviewed: mdc Date 9/2/14 [electronic]
4. IT reviewed if IT related Date [electronic]
5. Corrections made: Date [electronic] hard copy printed
6. Attorney signoff: Date
7. Contractor signed: Date
8. Submitted to Exec Office Date [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

Note: this form may need to expand to more than one page.
Amendment No. 5
Whatcom County Contract No. 201212020
CONTRACT BETWEEN WHATCOM COUNTY AND
Van Ness Feldman, LLP

THIS AMENDMENT is to the Contract between Whatcom County and Van Ness Feldman GordonDerr, Attorneys at Law, dated December 10, 2012 and designated "Whatcom County Contract No.201212020."

In consideration of the mutual benefits to be derived, the parties agree to the following:

The maximum consideration for this agreement shall be increased by $10,000.00, for a total contract amount not to exceed $140,000.00.

Unless specifically amended by this or prior amendments, all terms and conditions of the original contract shall remain in full force and effect.

IN WITNESS WHEREOF, Whatcom County and Van Ness Feldman, LLC have executed this Amendment on the date and year below written.

DATED this ________________ day of ________________, 2014.

CONTRACTOR:

_________________________________
Jay Derr, Attorney at Law

STATE OF WASHINGTON

COUNTY OF WHATCOM

ss.

On this __ day of ____, 20___, before me personally appeared ________________ to me known to be the Managing Partner of Van Ness Feldman, LLP and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

________________________________________
NOTARY PUBLIC in and for the State of Washington, residing at

My commission expires ____________.
WHATCOM COUNTY:

Approved as to form:

________________________________________________________________________
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By: ________________________________
   Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM ) ss.

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

________________________________________________________________________
NOTARY PUBLIC in and for the State of Washington, residing at

________________________________________________________________________
My commission expires ________________________.

CONTRACTOR INFORMATION:

CONTRACTOR
Van Ness Feldman, LLP
719 Second Avenue, Suite 1150
Seattle, WA 98104-1728

Contact Name: Jay Derr
Contact Phone: 206-623-9372
Contact FAX: 206-623-4986
Contact Email: jpd@vnf.com
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<th>CLEARANCES</th>
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**TITLE OF DOCUMENT:**
“Whatcom Chief” Ferry Insurance policy extension

**ATTACHMENTS:**
Memo, HUB International explanation letter, and Policy Extension Proposal

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<th>SEPA review required?</th>
<th>( ) Yes ( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( X ) NO</th>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The purpose of this action is to extend the existing “Whatcom Chief” ferry insurance policy to the end of the year. This action would allow our policy to be consistent with the calendar year. The carrier, Hub International, has agreed to extend our current policy to 1/1/15.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

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

FROM: Rob Ney, Special Programs Manager

RE: "Whatcom Chief" Ferry Insurance policy extension

DATE: August 26, 2014

Requested Action:

The purpose of this action is to extend the existing "Whatcom Chief" ferry insurance policy to the end of the year. This action would allow our policy to be consistent with the calendar year. The carrier, Hub International, has agreed to extend our current policy to 1/1/15.

A request for renewal for the calendar year 2015 will be forthcoming in late fall.

Thank you for your time and consideration of this extension. If you have any questions please contact Rob Ney at extension 50693.
August 19, 2014

Whatcom County Public Works
Robert Ney
311 Grand Ave.
Bellingham, WA 98225-4048

RE: Whatcom Chief – Insurance Policy Extension

Dear Rob,

As discussed, we have negotiated a policy extension with the existing insurance providers for Whatcom Chief.

This extension will expand the current insurance policy which had been effective from 9/30/13-9/30-14 to now expire 1/1/15.

The carriers have agreed to this extension base on a pro-rate premium calculation of $9,312.61.

Attached please find a spreadsheet outlining the current and proposed coverage limits and premiums.

This extension will accomplish two things. It will allow the ferry to be surveyed during haul out making this survey available for the annual insurance renewal negotiations and at the same time bring the ferry insurance policy concurrent with the calendar year and budget.

The coverage extension has been agreed to by underwriters and is in process, yet we have not received the actual endorsement. Once received it will be forwarded.

Please be sure to forward the survey as soon as possible & should you have any questions related to this extension please let us know.

Sincerely,

Greg Poehlman
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## ATTACHMENTS:
1. Background Memo
2. Whatcom County Contract Information Sheet
3. Agreement between Icon Enterprises, Inc., d/b/a CivicPlus and Whatcom County

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

Request authorization for the County Executive to enter into an agreement between Whatcom County and Icon Enterprises, Inc., d/b/a CivicPlus in the amount of $143,840 for professional services to redesign and migrate the main Whatcom County website to their hosted web Content Management System.

### 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.
Enclosed are two (2) originals of a website development and hosting agreement between Icon Enterprises, Inc., d/b/a CivicPlus (CivicPlus) and Whatcom County for your review and approval. This agreement is for professional services from CivicPlus to work with County staff to redesign and migrate the main Whatcom County website to their hosted Content Management System (CMS).

- **Background and Purpose**
  The current rendition of the County public website (www.whatcomcounty.us) was implemented in 2003. Our website has served us well for many years, but the "look and feel" and underlying technology has become out-of-date and is in need of replacement.

  CivicPlus provides a web Content Management System that focuses on the needs of local government. CivicPlus has over 1,700 government customers nationwide and over 30 customers in the State of Washington including Pierce County, Snohomish County, Cowlitz County, Olympia, Mt. Vernon, Blaine, Port of Bellingham and State Parks and Recreation.

  Whatcom County Information Technology has worked with county departments and confirmed that the CivicPlus solution will meet our high-level requirements for a new website. Whatcom County is able to contract with CivicPlus using the Pierce County Request for Proposal No. 648 competitive process and Contract # 79694 pursuant to the Washington State Interlocal Cooperative Act, RCW 39.34

- **Funding Amount and Source**
  The maximum consideration for the initial term of this contract is $143,840. The contract also includes an annual service fee of $11,415 per year for website hosting, Content Management System enhancements, maintenance and support. Funding is in the Information Technology 2014 budget from ASR #2013-5050.

Please contact Perry Rice at x 52511 or Brian Johnson at x 50300 if you have any questions or concerns regarding the terms of this agreement.

Encl.
# Whatcom County Contract Information Sheet

**Originating Department:** AS - Information Technology  
**Contract or Grant Administrator:** Perry Rice / Brian Johnson  
**Contractor's / Agency Name:** Icon Enterprises, Inc., d/b/a CivicPlus

### 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, (per WCC 3.08.100 (a)) Original Contract #:  

### Does contract require Council Approval?  
Yes ☐ No ☒ If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

### Is this a grant agreement?  
Yes ☐ No ☒ If yes, grantor agency contract number(s):  

### Is this contract grant funded?  
Yes ☐ No ☒ If yes, 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): Selection Process.  
Note: Used Pierce Co. Contract  
Cost Center: 507111

### Is this agreement excluded from E-Verify?  
Yes ☒ No ☐ If no, include Attachment D Contractor Declaration form.

If YES, indicate exclusion(s) below:  
- ☒ Professional services agreement for certified/licensed professional.  
- ☐ Contract work is for less than $100,000.  
- ☐ Contract work is for less than 120 days.  
- ☐ Interlocal Agreement (between Governments).

### Contract Amount:  
(sum of original contract amount and any prior amendments):  
$143,840.00

### This Amendment Amount:  
$  

### Total Amended Amount:  
$  

### Summary of Scope:  
Professional services to redesign and migrate the main Whatcom County website to the CivicPlus hosted web Content Management System.

### Term of Contract: Ongoing  
**Expiration Date:** Automatic annual renewal

### Contract Routing:  
1. Prepared by: TGH  
2. Attorney signoff:  
3. AS Finance reviewed:  
4. IT reviewed (if IT related):  
5. Contractor signed:  
6. Submitted to Exec.:  
7. Council approved (if necessary):  
8. Executive signed:  
9. Original to Council:  

### Contracts that require Council Approval (incl. agenda bill & memo)  
- Professional Services Agreement above $20,000.  
- Bid is more than $50,000.  
- 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.

---

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CONTRACT FOR SERVICES AGREEMENT
Whatcom County Website Development and Hosting

Icon Enterprises, Inc., d/b/a CivicPlus (CivicPlus), hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions ...................................................... pp. 3 to 8,
CivicPlus Service and License Agreement .................. pp. CP 1 to C P4,
Exhibit A: CivicPlus Project Deliverables .............. pp. Exhibit A 1,
Exhibit A.1: Project Development Scope of Work .......... pp. Exhibit A 2 to Exhibit A 3,
Exhibit A.2: Redesign Details ........................................ pp. Exhibit A 4,
Exhibit B: Billing Table ............................................... pp. Exhibit B 1,
Exhibit C: Certificate of Insurance ............................. pp. Exhibit C 1,
Exhibit D: Service Level Agreement ........................ pp. Exhibit D 1 to Exhibit D 3,
Exhibit E: Project Timeline .......................................... pp. Exhibit E 1 to Exhibit E 3.

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 date of execution, and shall continue perpetually, unless terminated or renewed as elsewhere provided in the CivicPlus Service and License Agreement.

The general purpose or objective of this Agreement is to: assist Whatcom County staff with the development and hosting of the CivicPlus Government Web Content Management System, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement shall not exceed $143,840.00. This is a fixed price contract with payments by milestone as identified in Exhibit A. 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 ____________, 2014.

CONTRACTOR:

CivicPlus

Brian Rempe, Chief Operating Officer

STATE OF Kansas )
) ss.
COUNTY OF ________________

On this ___ day of __________, 2014, before me personally appeared ______________, to me known to be the ______________ (title) of ______________ (Company) 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 Kansas, residing at ______________. My commission expires ______________.
WHATCOM COUNTY:
Recommended for Approval:

By: J. N. 9/9/2014
IT Manager Date

Approved as to form:
Prosecuting Attorney 9/9/14

Approved:
Accepted for Whatcom County:

By: ________________________________
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON  )
COUNTY OF WHATCOM  ) ss

On this ______ day of __________, 2014, 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:

Icon Enterprises, Inc., d/b/a CivicPlus ("CivicPlus")
(Type in Name of Contractor/Firm)

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

Address:
317 Houston St., Suite E
Manhattan, KS 66502

Mailing Address:
317 Houston St., Suite E
Manhattan, KS 66502

Contact Name: Danny Elmore

Contact Phone: 758-323-1510

Contact FAX: 785-587-8851

Contact Email: elmore@CivicPlus.com

Contract for Services Agreement
Website Development and Hosting
Series 00-09: Provisions Related to Scope and Nature of Services

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

Series 10-19: Provisions Related to Term and Termination

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

10.2 Extension: Not Applicable

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

11.2 Termination for Reduction in Funding: 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:

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

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

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

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

Series 30-39: Provisions Related to Administration of Agreement

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

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

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

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

30.3 No Guarantee of Employment:
Contract for Services Agreement
Website Development and Hosting
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, data, public records and website content 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:
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.

Professional Liability - $1,000,000.00 per occurrence (this amount may vary with circumstances)

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:**

To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney’s fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

A Party shall not be required to indemnify, defend, or hold the other Party harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party.

In the event of any concurrent act or omission of the parties, negligent or otherwise, each party shall pay its proportionate share of any damages awarded based upon comparative liability. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

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:** Not Applicable

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:

Perry Rice, IT Manager  
311 Grand Avenue, Suite #305  
Bellingham, WA 98226

37.2 Notice: Not Applicable

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

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

38.3 E-Verify: Not Applicable

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

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

40.2 Contractor Commitments, Warranties and Representations: Not Applicable

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

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

42.1 Disputes:

a. General:  
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

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

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

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

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

45.1 Entire Agreement:
This written Agreement, comprised of the writings signed or otherwise identified and attached hereto, represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.
## Project Development

<table>
<thead>
<tr>
<th>Organization</th>
<th>URL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whatcom County, WA</td>
<td><a href="http://www.co.whatcom.wa.us">www.co.whatcom.wa.us</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.whatcomcounty.us">www.whatcomcounty.us</a></td>
</tr>
</tbody>
</table>

| Street Address         | 311 Grand Avenue, Suite #305 |

| Address 2              |                             |
| City                  | Bellingham                  |
| State                | WA                          |
| Postal Code          | 98225                       |

CivicPlus provides telephone support for all trained clients from 7am - 7pm Central Time, Monday-Friday (excluding holidays). Emergency Support is provided on a 24/7/365 basis for representatives named by the Client. Client is responsible for ensuring CivicPlus has current updates.

<table>
<thead>
<tr>
<th>Emergency Contact &amp; Mobile Phone</th>
<th>Brian Johnson, Applications Supervisor, (360) 410-9489</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Denise Toth Banyan, Associate Manager, (360) 410-9565</td>
</tr>
<tr>
<td></td>
<td>Perry Rice, IT Manager, (360) 410-8885</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Billing Contact</th>
<th>Tami Gee-Hardy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone</td>
<td>(360) 676-7684, Ext. 50107, Fax (360) 676-6886</td>
</tr>
<tr>
<td>Billing Address</td>
<td>311 Grand Avenue, Suite #305</td>
</tr>
</tbody>
</table>

| Address 2                          |                                         |
| City                  | Bellingham                  |
| ST          | WA                          |
| Postal Code          | 98225                       |

| Tax ID #              | 91-6001383                  |
| Sales Tax Exempt #   |                             |

<table>
<thead>
<tr>
<th>Billing Terms</th>
<th>Account Rep</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Danny Elmore</td>
</tr>
</tbody>
</table>

| Info Required on Invoice (PO or Job #) |                             |

<table>
<thead>
<tr>
<th>Contract Contact</th>
<th>Perry Rice</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone</td>
<td>(360) 738-2511, Ext. XX, Fax (360) 676-6886</td>
</tr>
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</table>

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<thead>
<tr>
<th>Project Contact</th>
<th>Brian Johnson</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone</td>
<td>(360) 676-7684, Ext. 50300, Fax (360) 676-6886</td>
</tr>
</tbody>
</table>

## Terms & Conditions

1. Icon Enterprises, Inc., d/b/a CivicPlus ("CivicPlus") will create a unique website for Whatcom County, WA ("Client") that includes all functionality and hosting as defined in Exhibit A - CivicPlus Project Deliverables, attached hereto.

2. After 48 consecutive months under these terms and associated pricing, Client becomes fully eligible for a CP Basic Redesign at no additional cost. See Exhibit A.2 for complete details.

## Additional Services

3. Client may contract with CivicPlus for additional Consulting, Website Design, Setup, Programming, Site Modification, Training Services (Project Development Services), additional Graphic Design that exceed those defined in Exhibit A. CivicPlus will invoice Client at the completion of project milestones as defined in Exhibit B Billing Table. Services that involve billable time
Service & License Agreement for Whatcom County, WA

beyond the scope of this fixed fee contract will be documented and invoiced. Written approval by the Client is necessary before billable time is incurred.

4. Client may contract with CivicPlus for additional Annual Services that exceed those defined in Exhibit A and CivicPlus will invoice Client for additional Annual Services upon completion of the service and prior to project Go-Live. Product Suites or modules that incur additional usage fees may be purchased and activated at any time.

5. Acceptance of this Agreement signifies Client’s approval of any billable time specifically related to training services as detailed in Exhibit A, wherein a stated number of attendees is specified. Coverage for additional attendees not covered under this agreement is billed at a per diem rate specified in Exhibit A.

Billing & Payment Terms

6. As detailed in Exhibit A.1 – Billing shall include eight (8) invoices as follows: Completion of Phases 1, 4, 5, and after each week of Post Go-Live On-Site Consulting for 5 weeks. Acceptance of the timeline established with the CivicPlus project manager indicates the acceptance of the billing milestones.

7. The Client shall acknowledge project completion and acceptance at Post Go-Live Acceptance. Post Go-Live Acceptance will be 30-days following project go-live. The date may be extended if material system or operational failures are encountered.

8. Total invoices are due by the first of the following month, but no later than 30 days from invoice date. Project Development will be discontinued if payment is not made within 30 days after the invoice due date.

9. Invoicing for Year 2 Annual Services begins one (1) year from Post Go-Live Acceptance.

10. Annual Services invoices may be prorated in order to correlate with the Client’s budget year, and are invoiced prior to the year of service.

11. After project go-live, if the Client’s account exceeds 60 days past due, Support will be discontinued until the Client’s account is made current. If the Client’s account exceeds 90 days past due, Annual Services will be discontinued until the Client’s account is made current. Client will be given 30 days notice prior to discontinuation of services for non-payment.

12. The Client will be invoiced electronically through email. Upon request CivicPlus will mail invoices and the Client will be charged a $5.00 convenience fee.

13. Unless otherwise limited by law, a finance charge of 2.9 percent (%) per month or $5.00, whichever is greater, will be added to past due accounts. Payments received will be applied first to finance charges, then to the oldest outstanding invoice(s).

14. Provided the Client’s account is current, at any time the Client may request an electronic copy of the website graphic designs, the page content, all module content, all importable/exportable data, and all archived information (“Customer Content”). Client agrees to pay $250 per completed request. Provided the Client’s account is current, upon termination of services Client may request a complimentary electronic copy of website Customer Content.

Agreement Renewal

15. This contract shall remain in effect for a period of one year (12 months) from signing. In the event that neither party gives 60 days’ notice prior to the end of the initial or any subsequent term, this Agreement will automatically renew for an additional contract term. After 48 consecutive months under the terms of this contract and associated pricing, Client will be fully eligible for a CP Basic Redesign at no additional cost.

16. Either party may terminate the agreement at the end of the contract term by providing the other party with 60 days written notice prior to the contract renewal date.

17. In the event of early termination of this Agreement by the Client, Client forfeits eligibility for the CP Basic Redesign and all funds applied to such eligibility and full payment of the remainder of the contract is due within 15 days of termination.

18. The annual content management system website hosting fee is subject to a 3% increase year three and beyond.

Support

19. CivicPlus will provide unlimited telephone support Monday-Friday, 7:00 am – 7:00 pm (Central Time) excluding holidays, for all trained Client staff. Emergency Support is provided on a 24/7/365 basis for emergency contacts named by the Client. Client is responsible for providing CivicPlus with contact updates.

20. Support includes providing technical support of the GCMS® software, application support (pages and modules), and technical maintenance of Client’s website. CivicPlus support does not include support of 3rd party applications. Following initial setup, additional page design, graphic design, user training, site modification, and custom programming may be contracted separately for an additional fee.
21. During the period of this agreement and subsequent annual renewals, CivicPlus warrants that it will, without additional charge to the Client, take action to correct any problems or defects discovered in the GCMS® software and reported to CivicPlus by the Client, such warranty to include ongoing maintenance upgrades and technical error correction.

22. CivicPlus provides online website statistics software at no extra charge. If Client desires to use other website statistic software, CivicPlus will provide the necessary log file access.

Marketing

23. Client will work with the CivicPlus Marketing Department to make a reasonable attempt to gather information and meet deadlines associated with website award contest entries throughout the term of this agreement, and to create a case study related to their website.

24. Client permits CivicPlus to include an example of the Client’s home page and a link to the Client’s website on the CivicPlus corporate website.

25. Client will make a reasonable attempt to work with the CivicPlus Marketing Department to create a news item to be released in conjunction with their project Go-Live date. Client will provide CivicPlus with contact information for local and regional media outlets. CivicPlus may use the press release in any marketing materials as desired throughout the term of this Agreement.

26. Client allows CivicPlus to display a “Government Websites by CivicPlus” insignia, and web link at the bottom of their web pages. Client understands that the pricing and any related discount structure provided under this agreement assumes such perpetual permission.

Intellectual Property, Ownership & Content Responsibility

27. Upon full and complete payment of submitted invoices for the Project Development and launch of the website, Client will own the Customer Content.

28. Upon completion of the development of the site, Client will assume full responsibility for website content maintenance and content administration. Client, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Content.

29. Client shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the GCMS® software in any way; (ii) modify or make derivative works based upon the GCMS® software; (iii) create Internet “links” to the GCMS® software or “frame” or “mirror” any GCMS® administrative access on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the GCMS® software in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the GCMS® software, or (c) copy any ideas, features, functions or graphics of the GCMS® software.

30. The CivicPlus name, the CivicPlus logo, and the product and module names associated with the GCMS® software are trademarks of CivicPlus, and no right or license is granted to use them.

31. In the highly unlikely event that CivicPlus were to cease support for the software due to bankruptcy, acquisition, a change in business operations or other circumstances, the Client would also receive full and complete control of all website data and software. All relevant system documentation sufficient to allow the installation and use of the software, by reasonably trained technical staff, will be provided by CivicPlus. At that time the County shall have a perpetual use license to Contractor’s GCMS® software and associated modules.

32. Under this circumstance, provision of the core code, all associated modules and functionality would allow the client to move the entire website to an alternative hosting location without altering the management tools or modifying operation of the website in any way.

Liabilities

33. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier or other service provider whose facilities or services are used in furnishing any portion of the service received by the Client. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by Client or any entity other than CivicPlus or its subcontractors that furnishes services, facilities or equipment used in connection with CivicPlus services or facilities.

34. Except as expressly provided in this Agreement, CivicPlus makes no expressed or implied representations or warranties, including any warranties regarding merchantability or fitness for a particular cause.

Force Majeure
Service & License Agreement for Whatcom County, WA

35. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

Taxes

36. It is CivicPlus' policy to pass through sales tax in those jurisdictions where such tax is required. If the Client is tax-exempt, the Client must provide CivicPlus proof of their tax-exempt status, within thirty (30) days of contract signing, and this agreement will not be taxed. If the Client's state taxation laws change, the Client will begin to be charged sales tax in accordance with their jurisdiction's tax requirements and CivicPlus has the right to collect payment from the Client for past due taxes.

Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and authorize the provision of services outlined in this Agreement.

Client __________________________________________ Date ______________

CivicPlus __________________________________________ Date ______________

---

We will e-mail or fax a counter-signed copy of the contract back to you so we can begin your project. Upon receipt of two signed originals, we will counter-sign and return one copy for your files.

--Remainder of this page left intentionally blank--
Service & License Agreement for Whatcom County, WA

Exhibit A - CivicPlus Project Deliverables
All Quotes are in US Dollars and Valid for 30 Days from September 8, 2014.

<table>
<thead>
<tr>
<th>Project Development and Deployment</th>
<th>$143,840</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial GCMS® upgrades, maintenance, support and hosting – no additional cost</td>
<td></td>
</tr>
<tr>
<td>Server Storage not to exceed 100 GB</td>
<td></td>
</tr>
<tr>
<td><strong>Total Fees Year 1</strong></td>
<td><strong>$143,840</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Annual Website Hosting</th>
<th>$11,415</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Continuing GCMS® System Enhancements, Maintenance, Support and Hosting)</td>
<td></td>
</tr>
<tr>
<td>Subject to annual 3% increase year 3 and beyond</td>
<td></td>
</tr>
</tbody>
</table>

--Remainder of this page left intentionally blank--
### Kick-Off Meeting
**Deliverable:** Project Timeline, training jump start and worksheets  
**Included**

### 24 Hours Interactive Webinar Training
**Included**

### Phase 1: Consulting
**Deliverable:** Needs assessment, best practices and worksheets  
**$14,725**

### 10 Days On-Site Consulting *(includes all travel expenses)*
- A consultation package concentrating on your website committee's design goals, audience goals and meet with departments to kick-off with a project overview.  
**Deliverable:** A document summarizing the meetings, with analysis and recommendations. Design information gathered.  
- Meetings with all department stakeholders on strategy, content planning, optimization, service planning and design.  
**$23,600**

### Phase 2: Website Preview Presentation
**Deliverable:** Website layout and mood board will be presented for your approval  
**$8,870**

### Phase 3: Website Reveal Presentation
**Deliverable:** Completed website design and navigation structure will be presented. You will be able to propose changes at this time.  
**$20,027**

### Phase 4: 5 Days On-Site Training *(includes all travel expenses)*
**Deliverable:** Train System Administrator(s) on GCMS® Administration, permissions, setting up groups and users, module administration. Basic User training on pages, module entries, applying modules to pages. Applied use and usability consulting to result in effective communication through your website.  
**$7,500**

### Phase 5: Go Live
**Deliverable:** Content migrated from current primary site to new site based on best practice recommendations. Custom website. Registration of site with all major search engines.  
**Note:** Content from sites other than the primary site can be migrated to the new primary site for an additional fee.  
**$27,418**

### Additional Functionality

<table>
<thead>
<tr>
<th>Option</th>
<th>Included</th>
</tr>
</thead>
<tbody>
<tr>
<td>Google Translation Tool</td>
<td></td>
</tr>
<tr>
<td><strong>Options Included in One-Time Fee</strong></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>25 Days On-Site Training/ Consulting <em>(includes all travel expenses)</em></th>
<th>Included</th>
</tr>
</thead>
<tbody>
<tr>
<td>- 90 Day follow up consulting (5 days)</td>
<td></td>
</tr>
<tr>
<td>- Application technical consulting (5 days)</td>
<td></td>
</tr>
<tr>
<td>- 180 Day follow up consulting (5 days)</td>
<td></td>
</tr>
<tr>
<td>- 270 Day follow up consulting (5 days)</td>
<td></td>
</tr>
<tr>
<td>- On demand consulting (5 days)</td>
<td><strong>$37,500</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lightweight Directory Access Protocol (LDAP) Integration</th>
<th>Included</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Notify Me® with CivicSend Email &amp; 1,500 SMS Text</th>
<th>Included</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Citizen Request Tracker™ (Unlimited)</th>
<th>Included</th>
</tr>
</thead>
</table>

### Total Project Development and Deployment Fee
- *Initial GCMS® upgrades, maintenance, support and hosting included – no additional cost*
- *Server Storage not to exceed 100 GB*
**$143,840**

**Total Fees Year 1**  
**$143,840**
### Project Development and Deployment Includes the Following:

<table>
<thead>
<tr>
<th>Modules</th>
<th>Functionality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agenda Center</td>
<td>Action Items Queue</td>
</tr>
<tr>
<td>Alerts Center &amp; Emergency Alert Notification</td>
<td>Audit Trail / History Log</td>
</tr>
<tr>
<td>Archive Center</td>
<td>Automated PDF Converter</td>
</tr>
<tr>
<td>Bid Postings</td>
<td>Automatic Content Archiving</td>
</tr>
<tr>
<td>Blog</td>
<td>Dynamic Breadcrumbs</td>
</tr>
<tr>
<td>Business/Resource Directory</td>
<td>Dynamic Sitemap</td>
</tr>
<tr>
<td>Calendar</td>
<td>Expiring Items Library</td>
</tr>
<tr>
<td>Carbon Calculator</td>
<td>Graphic Link Administration</td>
</tr>
<tr>
<td>Citizen Request Tracker™ (unlimited users)</td>
<td>Links Redirect and Broken Links Finder</td>
</tr>
<tr>
<td>Community Connection</td>
<td>Menu Management</td>
</tr>
<tr>
<td>Community Voice™</td>
<td>Mouse-over Menu Structure</td>
</tr>
<tr>
<td>Document Center</td>
<td>MuniMobile™ (Mobile Website Browsing)</td>
</tr>
<tr>
<td>ePayment Center</td>
<td>Online Editor for Editing and Page Creation (WYSIWYG)</td>
</tr>
<tr>
<td>Facilities &amp; Reservations</td>
<td>Online Web Statistics</td>
</tr>
<tr>
<td>Frequently Asked Questions</td>
<td>Printer Friendly/Email Page</td>
</tr>
<tr>
<td>Forms Center</td>
<td>Rotating Content</td>
</tr>
<tr>
<td>Healthy City</td>
<td>RSS</td>
</tr>
<tr>
<td>Intranet</td>
<td>Site Layout Options</td>
</tr>
<tr>
<td>Job Postings</td>
<td>Site Search &amp; Entry Log</td>
</tr>
<tr>
<td>My Dashboard</td>
<td>Slideshow</td>
</tr>
<tr>
<td>News Flash</td>
<td>Social Media Integration (Facebook, Share and Twitter)</td>
</tr>
<tr>
<td>Notify Me® email and 1,500 SMS subscribers</td>
<td>User &amp; Group Administration Rights</td>
</tr>
<tr>
<td>Online Job Application with 1 Generic Application</td>
<td>Web Page Upload Utility</td>
</tr>
<tr>
<td>Opinion Poll</td>
<td>Website Administrative Log</td>
</tr>
<tr>
<td>Photo Gallery</td>
<td></td>
</tr>
<tr>
<td>Quick Links</td>
<td></td>
</tr>
<tr>
<td>Real Estate Locator</td>
<td></td>
</tr>
<tr>
<td>Spotlight</td>
<td></td>
</tr>
<tr>
<td>Staff Directory</td>
<td></td>
</tr>
</tbody>
</table>

### Support

<table>
<thead>
<tr>
<th>7 a.m. – 7 p.m. (CST) Monday – Friday (excluding holidays)</th>
<th>Install Service Patches for OS System Enhancements</th>
</tr>
</thead>
<tbody>
<tr>
<td>24/7 Emergency Support</td>
<td>Fixes</td>
</tr>
<tr>
<td>Dedicated Support Personnel</td>
<td>Improvements</td>
</tr>
<tr>
<td>2-hour Response During Normal Hours</td>
<td>Integration</td>
</tr>
<tr>
<td>Usability Improvements</td>
<td>Testing</td>
</tr>
<tr>
<td>Integration of System Enhancements</td>
<td>Development</td>
</tr>
<tr>
<td>Proactive Support for Updates &amp; Fixes</td>
<td>Usage License</td>
</tr>
<tr>
<td>Online Training Manuals</td>
<td></td>
</tr>
<tr>
<td>Monthly Newsletters</td>
<td></td>
</tr>
<tr>
<td>Phone Consulting</td>
<td></td>
</tr>
<tr>
<td>CivicPlus Connection</td>
<td></td>
</tr>
</tbody>
</table>

### Maintenance of CivicPlus Application & Modules

### Hosting

- Shared Web/SQL Server
- DNS Consulting & Maintenance
- Monitor Bandwidth-Router Traffic
- Redundant ISP
- Redundant Cooling
- Diesel Powered Generator
- Daily Tape Backup
- Intrusion Detection & Prevention
- Antivirus Protection
- Upgrade Hardware
## CivicPlus Project Development Services & Scope of Services for CP Basic Redesign

- New design
- Redevelop banner
- Redevelop navigation method (may choose top drop-down or other options)
- Design setup - wireframe
- Redevelop graphic elements of website (Newsflash, FAQs, Calendar, etc.)
- Project Management
- Testing
- Review
- Content Migration – Includes retouching of all existing published pages to ensure proper formatting, menu structure, and application of new site styles. Note: Content will **not** be rewritten, reformatted or pages broken up (shortened or re-sectioned)
- Site styles and page layouts will be touched so all pages match the new design and migrate cleanly
- Spelling and broken links will be checked and reported if unable to correct
Exhibit B - Billing Table

<table>
<thead>
<tr>
<th>Bill/Invoice</th>
<th>Invoice Amount</th>
<th>Milestone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Invoice 1</td>
<td>$42,525.00</td>
<td>Completion of Phase 1</td>
</tr>
<tr>
<td>Invoice 2</td>
<td>$36,397.00</td>
<td>Completion of Phase 4 (Includes Phase 2, 3 &amp; 4)</td>
</tr>
<tr>
<td>Invoice 3</td>
<td>$27,418.00</td>
<td>GO-Live Acceptance (Completion of Phase 5 and GO-Live Acceptance 30-Days After GO-Live)</td>
</tr>
<tr>
<td>Invoice 4</td>
<td>$7,500.00</td>
<td>After week of on-site consulting (90-Day Post GO-Live Follow-Up)</td>
</tr>
<tr>
<td>Invoice 5</td>
<td>$7,500.00</td>
<td>After week of on-site consulting (180-Day Post GO-Live Follow-Up)</td>
</tr>
<tr>
<td>Invoice 6</td>
<td>$7,500.00</td>
<td>After week of on-site consulting (270-Day Post GO-Live Follow-Up)</td>
</tr>
<tr>
<td>Invoice 7</td>
<td>$7,500.00</td>
<td>After week of on-site consulting (Application Integration Technical Consulting)</td>
</tr>
<tr>
<td>Invoice 8</td>
<td>$7,500.00</td>
<td>After week of on-site consulting (On Demand Technical Consulting)</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Development Fee</td>
<td>$143,840.00</td>
</tr>
<tr>
<td>Total Project Development Fee</td>
<td>$143,840.00</td>
</tr>
</tbody>
</table>

Hourly Rate for Additional Services From GSA Contract Number: GS-35F-0124U – Schedule 70

<table>
<thead>
<tr>
<th>Labor Category</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Website Consultant</td>
<td>$149.01</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$135.88</td>
</tr>
<tr>
<td>Network Consultant</td>
<td>$135.88</td>
</tr>
<tr>
<td>Wireless Network Technician</td>
<td>$135.86</td>
</tr>
<tr>
<td>Programmer</td>
<td>$131.48</td>
</tr>
<tr>
<td>Graphic Designer</td>
<td>$109.57</td>
</tr>
<tr>
<td>Writer</td>
<td>$109.57</td>
</tr>
<tr>
<td>Server and Network Technician</td>
<td>$109.57</td>
</tr>
<tr>
<td>Trainer</td>
<td>$109.57</td>
</tr>
<tr>
<td>PC Technician</td>
<td>$89.41</td>
</tr>
<tr>
<td>Content Developer</td>
<td>$80.64</td>
</tr>
</tbody>
</table>
Exhibit C - Certificate of Insurance

CERTIFICATE OF LIABILITY INSURANCE

DATE (MONDAY): 9/8/2014

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.

PRODUCER: Charleston Wilson Insurance
555 Poynette Avenue, Suite 205
P.O. Box 1989
Manhattan KS 66505-1989

CONTACT NAME: Brooke Steiner
PHONE: (785) 537-1600
FAX: (785) 537-3477
EMAIL: bsteeiner@charlsonwilson.com

INSURER:A
SENTINEL INSURANCE COMPANY LTD
11000

INSURER:B
TWIN CITY FIRE INSURANCE CO.
29459

INSURER:C
HARTFORD FIRE INSURANCE CO.
19682

INSURER:D: CC II

INSURER:E:

INSURER:F:

COVERAGES


REVISION NUMBER: X

This is to certify that the policies of insurance listed below have been issued to the named insured 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 remain, 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 prior claims.

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL LIABILITY</td>
<td>X 3788AAM45566</td>
<td>EACH OCCURRENCE: $2,000,000</td>
</tr>
<tr>
<td>AUTOMOBILE LIABILITY</td>
<td>X 3786CXX7976</td>
<td>EACH OCCURRENCE: $2,000,000</td>
</tr>
<tr>
<td>OCCUR</td>
<td>CLAIMS MADE: $2,000,000</td>
<td></td>
</tr>
<tr>
<td>EXCESS LIABILITY</td>
<td>X 00 TE 027799-14</td>
<td>EACH CLAIM LIMIT: $3,000,000</td>
</tr>
<tr>
<td>OCCUR</td>
<td>CLAIMS MADE: $3,000,000</td>
<td></td>
</tr>
</tbody>
</table>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 20, Additional Remarks Schedule, if more space is required)

Whatcom County is listed as additional insured with respect to the general liability and the auto liability as required by written contract.

CERTIFICATE HOLDER: Whatcom County
311 Grand Avenue
Suite 108
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: Brooke Steiner/TAL

ACORD 25 (2010/05)

The ACORD name and icon are trademarked marks of ACORD.

©1988-2010 ACORD CORPORATION. All rights reserved.
Exhibit D – Service Level Agreement

BACKGROUND AND PURPOSE
CivicPlus provides a multitude of ongoing services to clients, including website hosting in CivicPlus’ dedicated hosting facility, website backup services (including disaster recovery procedures), maintenance of the Government Content Management System (GCMS®) and associated applications, upgrades to both the GCMS® software and hosting hardware, and technical support.

The purpose of this SLA is to establish a partnership/agreement between CivicPlus and Client to define services and responsibilities such that CivicPlus will provide services to Client to ensure consistent, safe and secure website hosting, critical maintenance and regular upgrades of the GCMS®, and as-needed support services.

SCOPE OF SERVICES

1. Hosting and Maintenance Services
The primary CivicPlus hosting facility is located in Kansas City, KS at a Tier II data center. The Kansas City facility provides managed co-location services for servers that are owned, managed and maintained by CivicPlus. Services provided include N+1 environmental, premium peering services, 24x7 service monitoring and redundant substation power with full onsite diesel generation as additional backup.

CivicPlus also has a dedicated primary back-up hosting facility located in their Manhattan, KS headquarters specifically built and maintained for website hosting and administration; CivicPlus’ on-site internet access provides 1GB burstable internet capability with option to expand and regular hardware upgrades ensure that CivicPlus-hosted sites are maintained on the most up-to-date, reliable equipment. Additional services at the Manhattan facility include 24x7 service monitoring and full onsite diesel generation as additional backup.

Client’s website will be hosted and maintained on a virtual web server and virtual SQL server (either shared or dedicated, dependent on size and storage/bandwidth needs of Client).

Scheduled maintenance events will occur during the least-trafficked hours on weekends. Planned maintenance is announced in a number of different ways, such as emails up to a week ahead of time, and messages on the admin side of the website. Client will be notified two weeks in advance of planned outages of thirty (30) minutes or more. Client will be notified in advance of any anticipated downtime not to exceed a period of six hours. Scheduled downtime does not count against the 99.7% uptime specifications.

CivicPlus guarantees 99.7% uptime. Scheduled maintenance events occur during the least-trafficked hours on weekends and rarely result in downtime. Client will be notified in advance of any anticipated downtime not to exceed a period of six hours. If over the course of a year guaranteed uptime falls below 99.7%, independent of scheduled maintenance, CivicPlus agrees to provide a credit to client of 1% of the monthly cost for maintenance.

2. Network Performance and Power Redundancy
At all CivicPlus facilities, redundant Internet connections ensure continuous connectivity. The Kansas City facility maintains internet services from various providers including Verizon, AT&T and Time Warner Telecom. The Manhattan facility utilizes two Internet Service Providers – Cox Communications and AT&T – for connectivity. Providers allow for an upstream speed of up to 100 mbps, and the facilities feature BGP routing to ensure continued uptime in the event of failure of one provider. Multiple redundant network security appliances ensure the integrity of network connectivity and associated stored data.

Redundant power management at CivicPlus’ hosting facilities also keeps servers running in the event of primary power failure. Diesel generators that are controlled by automatic transfer switches (ATS) are activated when the primary power utility goes down. The ATS automatically activates and runs generator until such time as primary power is restored. Battery backups power the servers during the 30 seconds between primary power failure and backup generator activation.
3. Disaster Recovery and Website Backup Services

In the event of total service failure at the primary Kansas City facility, CivicPlus will begin activation of sites at the primary back-up facility in Omaha. Downtime in the event of total service failure will, in most cases, be less than eight hours for all sites. Eight hours to site reactivation is our guarantee; any event lasting that long would be indicative of a significant catastrophe.

Extensive backups of CivicPlus' client's sites are conducted daily, weekly and monthly to ensure that even in the most unlikely of circumstances, limited-to-no site content will be lost.

Each night, an approximately 18-hour backup process begins, covering CivicPlus' miscellaneous servers, web servers and SQL servers. Files from the web servers are copied as-is over the course of this backup. Various log files are deleted for storage purposes on a weekly basis.

During the nightly backup, a two-hour process creates a backup of the database for each client website. These backups are written on disk and tape, and they are stored on disk until being held for seven days.

Monday through Thursday, daily backups are written to tapes that are reused on a weekly basis. Backups on Friday nights are written to tapes that are reused each month. Monthly backups, conducted on the last Friday of every month, are written to a tape that is reused once per year. All backup tapes are stored off-site and, in the event of failure of the primary hosting facility, will be transported to the backup hosting location.

CivicPlus can also work with clients to provide dedicated server arrangements or off-site backups in order to achieve maximum efficiency in the hosting process.

4. Site Setup and DNS Services

CivicPlus offers enterprise-level DNS hosting as a part of the standard hosting package and recurring services. Either CivicPlus or Client can maintain control of the DNS.

CivicPlus offers full support for BIND v.9 implementation and features two high-performance DNS appliances for primary and secondary servers.

One static IP address per site will be provided. Client may purchase as many additional domains as desired. The current rate is $100 setup and $150/annually per domain (as of September 8, 2014, subject to change).

5. Upgrades

CivicPlus offers no versions from which to choose and no system upgrades to purchase year after year. CivicPlus' technical team continues to improve and enhance the existing GCMS®, offering clients the benefits of new technologies, improvements in operations and, when problems do arise, a faster response time. CivicPlus' proprietary system means that errors and influences from outside entities are greatly minimized, allowing CivicPlus' software engineers to focus on continuing to build, integrate and leverage only those applications that have met an approved high standard of quality and functionality.

Upgrades to the code base and functionality of the GCMS® are continuously applied to CivicPlus' servers, strengthening the overall integrity of the GCMS®, fixing bugs and errors, and integrating new functionality into existing applications. Client will be made aware of any upgrades that affect usability and functionality of the GCMS® and associated applications.

Upgrades are prioritized internally within CivicPlus' organization based upon several criteria, including, but not limited to:

- New and next-generation development priority determined by the Executive Leadership Team
- Regular maintenance and error correction priority determined by the Chief Technology Officer
- Development requests from clients – only in cases of high demand for particular functionality or services, and only in instances where such development will benefit the majority of clients
6. Support Services

CivicPlus' on-site support team is available from 7:00 am to 7:00 pm CT to assist clients with any questions, concerns or suggestions regarding the functionality and usage of CivicPlus' GCMS® and associated applications. The support team is available during these hours via CivicPlus' toll-free support number and e-mail. Support personnel will respond to calls as they arrive (if all lines are busy, messages will be returned within two hours; action will be taken on e-mails within four hours), and if Client’s customer support liaison is unable to assist, the service escalation process will begin, with answers being provided within one business day.

Emergency support is available 24-hours-a-day for designated, named Client points-of-contact, with members of both CivicPlus’ project management and support teams available for urgent requests. Emergency support is provided free-of-charge for true emergencies (ie: website is down, applications are malfunctioning, etc.), though Client may incur support charges for non-emergency requests during off hours (ie: basic functionality / usage requests regarding system operation and management). The current discounted rate is $125/hour, as of September 8, 2014 and is subject to change.

CivicPlus maintains a customer support website that is accessible 24-hours-a-day with an approved client username and password.

7. Service Escalation Processes

In the event that CivicPlus’ support team is unable to assist Client with a request, question or concern, the issue is reported to the appropriate CivicPlus department.

Client requests for additional provided services are forwarded to CivicPlus’ Client Care personnel.

Client concerns/questions regarding GCMS® or associated application errors are reported to CivicPlus’ technical team through CivicPlus’ issue tracking and management system to be addressed in a priority order to be determined by CivicPlus’ technical team.

All other requests that do not meet these criteria will be forwarded to appropriate personnel within CivicPlus’ organization at the discretion of the customer support liaison.

8. Protection of Client Data

Contractor shall maintain appropriate safeguards for protection of County data. Contractor shall not modify County data, disclose County data (except as compelled by law or if permitted by the County), or access County data, except to prevent or address service or technical issues, or at the County’s request. Contractor shall promptly notify the County of any subpoena, court order or request by a third party for County data.

--Remainder of this page left intentionally blank--
Exhibit E – Project Timeline

+ WHATCOM DRAFT Project Timeline (as of 9.9.14)

**PHASE 1**

Project Kickoff and Consulting

- **Sept 16**
  MEETING
  
  Project Kickoff Meeting  
  We will set the project timeline, review the process & assign take-aways.

- **Oct 10**
  ACTION ITEMS
  
  Please Return or Complete: Photos & Logos, Verbatim Content, Website Statistics, Department List, Site Map, Online Forms, and other deliverables

- **Oct 27-Nov 7**
  MEETING
  
  On-Site Consulting  
  Analyze project goals & expectations.

- **Nov 7 (last day of consulting)**
  MEETING
  
  Website Optimization Meeting  
  Review goals and identify how you want your website to look, feel and function.

**PHASE 2**

Website Optimization

- **Nov 25**
  MEETING
  
  Layout Proposal Presentation  
  Finalize layout, information architecture, and mood board for new site.

- **Dec 2**
  MEETING
  
  Content/Project Check in  
  During this meeting, we will touch base on the status of the website content as well as address any outstanding items.

- **Dec 5**
  ACTION ITEM
  
  Content Up To Date  
  Critical to guarantee the information available is relevant, fresh, and on-point.

- **Dec 9-11**
  MEETING
  
  CMS Administrators Webinar Training  
  Webinar training pre-reveal for Administrators to get familiar with the system.

- **Dec 16**
  MEETING
  
  Project Check-In  
  Quick phone call to check-in on progress, review marketing materials if needed, and discuss open items.
PHASE 3
Website Reveal

- Jan 7
  MEETING

  Website Reveal Meeting
  Presentation of your functional website based on your goals, recommendations, and our combined vision.

- Jan 7-21
  ACTION ITEMS

  Design & Content Review
  Discuss and complete design revisions and major content concerns.

PHASE 4
Training

- Jan 26-30
  ACTION ITEMS

  On-Site Training
  Complete training and work with trainer to complete

PHASE 5
Go Live

- Feb 2-20
  ACTION ITEMS

  Prep for Go Live
  Clean up content; discuss DNS and other applicable issues to go live.

- Feb 23
  MEETING

  Pre Go Live Check in
  We will check in to ensure all is ready for go live.

- Feb 26
  ACTION ITEM

  Go Live!

POST GO-LIVE
Consulting

- May 25-29
  MEETING

  90 Day Post Launch Consulting
  We will address outstanding issues, review goals, set new goals or adjust current goals, and implement additional modules.
Service & License Agreement for Whatcom County, WA

- **July 13-17**
  MEETING
  Application Technical Consulting
  We will assist in migration of form based apps using the API.** (**Other consulting, as necessary. We can adjust this consulting, based on your needs.

- **Aug 24-28**
  MEETING
  180 Day Post Launch Consulting
  We will address outstanding issues, review goals, set new goals or adjust current goals, and implement additional modules.

- **Nov 30-Dec 4**
  MEETING
  270 Day Post Launch Consulting
  We will address outstanding issues, review goals, set new goals or adjust current goals, and implement additional modules.

- **TBD (5 days)**
  MEETING
  On Demand Consulting**
  Resolve issues as necessary. (**Dependent on the availability of CivicPlus consultants. Consulting usually needs to be scheduled 2-3 months in advance).
TITLE OF DOCUMENT: Residential Lease Agreement (for the Silver Lake Park apartment)

ATTACHMENTS: Lease agreement

REQUESTED DATES: 

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.)

Request authorization for the County Executive to enter into a residential lease agreement for the apartment at Silver Lake Park.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

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

TO: Jack Louws, Executive
FROM: Michael McFarlane, Director
DATE: August 28th, 2014
RE: Residential Lease for the Silver Lake Park Apartment

Enclosed are two copies of a residential lease agreement between Whatcom County and Ted Sellers for your review and signature. The lease is for the apartment at the Silver Lake Park Day Lodge.

Ted Sellers has been hired as a Park Ranger and is assigned to Silver Lake Park. The previous tenant vacated the apartment and Mr. Sellers is interested in renting. This is desirable for the County as it has an additional employee residing in the park to respond to emergencies and provide additional security.

This is a month to month lease agreement at the current regular rental rate of $670.00 ($593.76 plus $76.24 leasehold tax of 12.84%).

If you have any questions or require additional information please contact Michael McFarlane at 32072.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Parks and Recreation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Christ Thomsen</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Ted Sellers</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, (per WCC 3.08.100 (a)) Original Contract #

Does contract require Council Approval? Yes [ ] No [ ]
(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

Is this a grant agreement? Yes [ ] No [ ]
If yes, grantor agency contract number(s) __________________ CFDA #

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:

Is this agreement excluded from E-Verify? No [ ] Yes [ ]
If no, include Attachment D Contractor Declaration form.

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

Contract Amount:(sum of original contract amount and any prior amendments)
- $ 670 per month
This Amendment Amount:
- $ 670 per month
Total Amended Amount:
- $

Summary of Scope:
Residential Lease agreement for the Silver Lake Park apartment,

Term of Contract: Month to month
Expiration Date: Upon 30 day notice

Contract Routing Steps & Signoff: sign or initial
1. Prepared by: ____________________________
2. Attorney reviewed:
3. AS Finance reviewed:
4. IT reviewed if IT related:
5. Attorney signoff:
6. Contractor signed: ____________________________
7. Submitted to Exec Office:
8. Council approved (if necessary):
9. Executive signed:
10. Original to Council

Contracts that require Council Approval (incl. agenda bill & memo)
- Professional Services Agreement above $20,000.
- Bid is more than $50,000.
- 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.
RESIDENTIAL LEASE AGREEMENT

THIS AGREEMENT, dated as of July 24th, 2014 is made and entered into between WHATCOM COUNTY (PARKS & RECREATION DEPARTMENT), a municipal corporation in the State of Washington, hereinafter referred to as the "Landlord" and EDWARD "TED" SELLERS as the "Tenant."

In consideration of the covenants and agreements hereinafter set forth, the Landlord does hereby lease to Tenant those certain premises situated at 9006 Silver Lake Road, Maple Falls, Washington, 98266, County of Whatcom, State of Washington, particularly described as follows:

Upper floor of the night lodge at Silver Lake Park, 3 bedroom, 1 bathroom apartment

1. RENT: Tenant shall pay monthly rent in the amount of $670.00 ($593.76 plus $76.24 leasehold tax of 12.84%) in advance on or before the first day of each month to the Landlord or to such other person(s) as Landlord from time to time designates in writing.

2. UTILITIES: Landlord shall pay for all utilities but Tenant agrees to make a good faith effort to conserve energy. Tenant shall pay for phone, internet, and television services.

3. DAMAGES, CLEANING AND SECURITY DEPOSIT: Upon vacancy:
   
a. Tenant shall have fully performed the obligations hereunder and those set forth in the 1973 Residential Landlord-Tenant Act as amended, or as subsequently amended.

b. Tenant shall have returned to Landlord all keys provided during the tenancy. A charge of $10.00 will be assessed for each key not returned by Tenant.

c. Tenant shall have cleaned and restored premises to its original condition at commencement of this tenancy, except for normal wear and tear resulting from ordinary use.

e. Tenant shall have remedied or repaired to Landlord’s satisfaction any damage to premises or furnishings.

Within fourteen (14) days after termination of tenancy and vacation of the premises, Landlord will give Tenant a full and specific statement of the basis for retaining any or all of the deposit.

4. USE OF PREMISES: Tenant shall not assign this Agreement, sublet the premises, give accommodations to any roomers or lodgers or permit the premises to be used for any purposes other than a private dwelling solely for the Tenant and his/her family consisting of the following named persons: Heidi A. Sellers, Juniper H. Sellers.

Residential Lease Agreement - Page 1
5. TENANT OBLIGATIONS: Tenant agrees as follows:

a. To pay all rent and other charges promptly when due. A late charge of $75.00 will be assessed if rent is not paid by the 5th day of the month.

b. To properly use and operate all electrical, gas, heating, plumbing, and other fixtures and appliances supplied by the Landlord.

c. To keep the premises in a clean and sanitary condition.

d. Not to use the premises for any purpose deemed hazardous by insurance companies.

e. To properly dispose of all rubbish, garbage and other organic or flammable waste at reasonable and regular intervals and to assume all costs of extermination and fumigation for infestation caused by Tenant.

f. Not to intentionally or negligently destroy, deface, damage, impair or remove any part of the structure or dwelling, including the facilities, equipment, furniture, furnishings and appliances, or permit any member of his/her family, invitee, licensee or any person under his/her control to do so.

g. To repair, at Tenant's expense, any damage to the premises caused by Tenant's acts or neglect or any family member, invitee, licensee or any person under his or her control including a sub-tenant within thirty (30) days of receipt of written notice from Landlord requiring such repairs, or within a shorter time if made necessary by emergency.

h. To permit the Landlord, his/her agents, employees or representatives to enter the premises at reasonable times after notice as required by the 1973 Residential Landlord-Tenant Act for the purpose of inspections or to make necessary repairs or improvements or to show the premises to prospective purchasers, mortgagees or insurance representatives.

i. To permit Landlord to show the premises to prospective tenants after notice as required by the 1973 Residential Landlord-Tenant Act for a period of twenty (20) days prior to expiration of tenancy.

j. No animals or pets shall be allowed on the premises or inside the residence without written permission of the Parks & Recreation Director. Any pets other than those listed below will require a standard $200 damage deposit to be paid in advance or concurrent with the pet’s first day at the Park.

  (1) Pets must be controlled at all times when outside. Employees must observe all rules regarding pets that regular park visitors are required to observe.
Current Pets (list type of animal, breed if applicable and age):

Cattle Dog, 7 year old, named Mia

k. Not to install a waterbed without the prior written approval of the Landlord.

l. Not to make any alterations, additions, painting or improvements in or to the premises, including changing or adding additional door locks, without the prior written approval of Landlord.

m. To notify the Landlord immediately in writing of any necessary repairs or damage to the premises.

n. Not to smoke in the premises.

o. Not to engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of Chapter 69.41, 69.50, or 69.52 RCW.

p. To conform to the rules and regulations adopted by Landlord. These rules and regulations may be modified by Landlord upon thirty (30) days written notice.

q. To keep the area immediately surrounding the premises free and clear.

r. There will be no parking permitted of any vehicles and/or trailers, of any type, upon grass or lawn.

s. Tenant will be responsible for lawn care of the premises.

t. Not to post any political, advertising, or other signs on park property, including in windows that are visible to the public. Whatcom County Parks & Recreation recognizes the Tenant’s right to free speech, but given the public nature of park property it’s imperative that the public not conclude that Whatcom County Parks & Recreation is endorsing a particular candidate or political position, or is advertising a particular product or service.

6. TERMINATION: The month-to-month tenancy can be terminated by either party upon 30 days written notice to the other party.
7. **ABANDONMENT:** If Tenant defaults in payment of rent and is absent from the premises for a period of fourteen (14) consecutive days, it shall be presumed that Tenant has abandoned the premises and does not intend to resume his/her tenancy. In the event of such an abandonment, Landlord may immediately enter the premises and take possession of any property of Tenant found therein. Any such property shall be stored and disposed of pursuant to the provisions of the 1973 Residential Landlord-Tenant Act as amended.

8. **SUBLETTING AND ASSIGNMENT:** Tenant agrees not to sublet the premises nor any part thereof nor assign this Agreement in whole or in part without the prior written consent of Landlord.

9. **NO WAIVER:** Failure of Landlord to insist upon the strict performance of the terms, covenants, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of Landlord's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

10. **ATTORNEY'S FEES:** In the event suit shall be brought regarding the performance of the terms and provisions of this Agreement or because of a breach of any of Tenant's obligations, then Tenant agrees to pay to Landlord reasonable attorney's fees as authorized by R.C.W. Chapter 59.18.

11. **HOLD HARMLESS:** The Tenant shall protect and hold the Landlord harmless for all claims and damages arising out of the Tenant's negligent use of the permit premises.

12. **OTHER TERMS / INFORMATION:**
   a) Two keys were provided to the Tenant.

13. **DELIVERY OF POSSESSION:** If for any reason whatsoever Landlord does not deliver possession of the premises at the commencement of the term of this Agreement, rent shall be abated until such date as possession of the premises is tendered by Landlord, and in all other respects this Agreement shall remain in full force and effect and the term shall not be extended thereby. In no event shall Landlord be liable for damages caused by failure to deliver possession of the premises. If possession of the premises is not tendered to Tenant within ten (10) days of the commencement of the term of this Agreement, Tenant may terminate this Agreement by giving written notice to Landlord and any monies paid by Tenant to Landlord shall be refunded to Tenant.
Tenant acknowledges that he/she/they have read this agreement and will abide by its terms and will comply with all rules and regulations adopted by Landlord.

TENANT

[Signature]

Edward “Ted” Sellers

360-259-5820

Telephone Number

STATE OF WASHINGTON)

COUNTY OF WHATCOM)

On this ☐ day of ☐, 20___, before me personally appeared Edward “Ted” Sellers to me known to be the individual(s) described in and who executed the within and foregoing instrument, and acknowledges that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this ☐ day of ☐, 20___

[Seal]

DARLA K SMITH

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

My Commission expires: 4/1/2015
Executed as of the date first written above.

LANDLORD

WHATCOM COUNTY

__________________________________________
Jack Louws, County Executive

STATE OF WASHINGTON)

) ss.

COUNTY OF WHATCOM )

On this _____ day of __________, 20__, before me personally appeared Jack Louws, to me known to be the County Executive of WHATCOM COUNTY 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 ______________, 20__.

__________________________________________
NOTARY PUBLIC in and for the State of Washington,
residing at Bellingham
My Commission expires:

WHATCOM COUNTY PARKS & RECREATION
DEPARTMENT

Michael McFarlane, Director

APPROVED AS TO FORM:

______________________________
Deputy Prosecuting Attorney

Residential Lease Agreement - Page 6


## 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>pj</td>
<td>7/21/14</td>
<td></td>
<td>9/16/14</td>
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<td>Dept. Head:</td>
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<tr>
<td>Executive:</td>
<td>9/8/14</td>
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<td></td>
</tr>
</tbody>
</table>

### TITLE OF DOCUMENT:

Agreement between Whatcom County and Thrive by Five Washington

### ATTACHMENTS:

- Contract Info Sheet
- Memo to Executive
- 2 Originals of Contract Agreement

### 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 the third year that Whatcom County received this grant to implement the Nurse-Family Partnership (NFP) program. The program utilizes a home visiting model to support low income first time mothers with the following additional risk factors: Hispanic ethnicity, geographic isolation, history of depression, under age 21 and familial substance abuse. The project is part of a wider community effort to improve the health and well-being of Whatcom County children.

### COMMITTEE ACTION:

### COUNCIL ACTION:

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

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

TO:        Jack Louws, County Executive
FROM:      Regina A. Delahunt, Director
RE:        Thrive By Five, Nurse Family Partnership Grant
DATE:      July 21, 2014

Enclosed are 2 originals of a contract amendment between Whatcom County and Thrive By Five Washington.

▪ Background and Purpose

This is the third year that Whatcom County received this grant to implement the Nurse-Family Partnership (NFP) program. The program utilizes a home visiting model to support low income first time mothers with the following additional risk factors: Hispanic ethnicity, geographic isolation, history of depression, under age 21 and familial substance abuse. The project is part of a wider community effort to improve the health and well-being of Whatcom County children.

During the 2013-2014 grant period, the visiting nurses made over 600 home visits to 25 families and served 47 families in the program as a whole. Program participants have demonstrated a low rate of premature births and a high rate of breastfeeding; both measurable outcomes of the Nurse-Family Partnership.

▪ Funding Amount and Source

This grant to Whatcom County is for $176,799 and is funded by the Early Learning Fund d/b/a Thrive By Five, which is an organization funded through a mix of State dollars and private funds from the Bill and Melinda Gates Foundation. The County match for this grant is from the Chemical Dependency/Mental Health Program Fund in the amount of $100,000.

Council approval is required and an agenda bill is attached.

▪ Differences from Previous Contract

This is a new agreement, but similar to the Thrive By Five grants we received for the last two years.

Please contact Judy Ziels at extension 32023, if you have any questions regarding this agreement.

Encl.
## WHATCOM COUNTY CONTRACT
### INFORMATION SHEET

**Originating Department:** Health  
**Contract or Grant Administrator:** Judy Ziels  
**Contractor's / Agency Name:** Thrive By Five Washington

### Is this a New Contract?  
If not, is this an Amendment or Renewal to an Existing Contract?  
**Yes** _X_  **No** _□_  
If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract # __________

### Does contract require Council Approval?  
**Yes** _X_  **No** _□_  
(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)

### Is this a grant agreement?  
**Yes** _X_  **No** _□_  
If yes, grantor agency contract number(s) __________  
CFDA # __________

### Is this contract grant funded?  
**Yes** _□_  **No** _X_  
If yes, associated Whatcom County grant contract number(s) __________

### Is this contract the result of a RFP or Bid process?  
**Yes** _□_  **No** _X_  
If yes, RFP and Bid number(s) __________  
Cost Center: 621210

### 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 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 Gov't's)  
- □ Public Works - Local Agency/Federally Funded FHWA

### Contract Amount:(sum of original contract amount and any prior amendments)

- $176,799

### 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 $50,000.
- 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: This is the third year that Whatcom County received this grant to implement the Nurse-Family Partnership (NFP) program. The program utilizes a home visiting model to support low income first time mothers with the following additional risk factors: Hispanic ethnicity, geographic isolation, history of depression, under age 21 and familial substance abuse. The project is part of a wider community effort to improve the health and well-being of Whatcom County children.

### Term of Contract: 1 Year  
Expiration Date: 6/30/2015

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

1. Prepared by:  
   Date 7/17/14
2. Attorney reviewed:  
   Date 7/24/14
3. AS Finance reviewed:  
   Date 8/14/14
4. IT reviewed if IT related:  
   Date
5. Attorney signoff:  
   Date 7/24/14
6. Contractor signed:  
   Date
7. Submitted to Exec Office:  
   Date 8-5-14
8. Council approved (if necessary):  
   Date
9. Executive signed:  
   Date
10. Original to Council  
    Date

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INDEPENDENT CONTRACTOR AGREEMENT

Washington Early Learning Fund, d/b/a Thrive by Five Washington ("Thrive") and Whatcom County Health Department ("Contractor") hereby enter into this Agreement as of July 1, 2014 (the "Effective Date").

Maximum Contract Total: $176,799.00
Includes:
Service Funds: $175,000.00
Travel Stipend: $1,799.00

Contract ID: 236
Contract Term: 7/1/2014 to 6/30/2015
Tax ID Number: 916001383
Project Lead: Ms Judy Ziels
Purpose: Home Visiting Services Account
Federal Subrecipient: No

1. Services. Contractor shall perform all services listed in the approved proposal and budget (referred to herein as the "Project"), and for which excerpts (Implementation Plan and Budget) have been incorporated as Schedule A.

2. Payment. Thrive will reimburse Contractor for expenditures incurred each month, according to the terms provided in Schedule B, provided that Contractor performs the services. Monthly expenditures will be reported using the online reporting system. Payment is based on the assumption that state and private funds are available to Thrive for disbursement to the Contractor. In the event that state and private funds are not available to Thrive, Thrive reserves the right to amend the payment terms and the amount of the Maximum Contract Total. The term of this Agreement ("Term") begins on the Effective Date, and the Contractor agrees to not incur any expenses on the Project using Thrive funding prior to the Effective Date. The Term end date is met when all funds have been expended and Project requirements met, or earlier in the event of non-compliance.

3. Payment Information. If Thrive begins at any time to use direct deposit to issue payments under the Contract to Contractor, then Contractor agrees to provide Thrive with all information necessary to correctly issue such payments, including but not limited to bank name, routing number, account number, and account type. If Contractor fails to provide such information in response to Thrive's written request, then Thrive may withhold payments to Contractor until Contractor provides such information.

4. Travel Stipend Funds. Included in the Maximum Contract Total is a Travel Stipend. Contractor agrees that funds awarded for the Travel Stipend will be used solely for travel costs associated with Contract Requirements outlined in Schedule B. Should any Travel Stipend funds be unexpended after all requirements have been met, Contractor may request in writing that Stipend funds be repurposed for the Project.

5. Independent Contractor. In executing the Project, Contractor will act as an independent contractor and not as an employee or agent of Thrive. This Agreement does not create an agency,
partnership, joint venture, franchise, or employment relationship between the parties. Contractor has no authority to obligate Thrive. Thrive will not be liable for any of Contractor’s expenses, except as expressly stated in Schedule B. Thrive will not make deductions from any amounts payable to Contractor for taxes. Contractor will be responsible for and will pay all taxes related to the receipt of payments from Thrive.

6. Budget. Contractor further agrees that funds provided under this Agreement will be expended as specifically itemized line by line in the Budget provided in Schedule A, and that transfers within expense categories of the budget in excess of 10% of the award amount will not be made unless approved by Thrive.

7. Reporting and Other Contract Requirements. Contractor agrees to submit reports, as well as perform all other requirements outlined in Schedule B, on or before the dates indicated therein. Thrive reserves the right to aggregate, disaggregate, analyze, reproduce, and/or disseminate the data provided in Program Reports, Financial Activity Reports, or any other reports submitted to Thrive with respect to the Project. Use of any data by Thrive will be restricted exclusively to charitable purposes.

8. Data Collection and Evaluation. Thrive will conduct research and evaluation regarding the projects funded through its home visiting program. Contractor agrees to participate in these evaluation efforts and will fulfill the data collection and reporting requirements specified in Schedule C, Data Collection and Evaluation Requirements. It will be the obligation of Thrive representatives, Contractor, and other contractors to provide protections and assurances regarding the confidentiality of data, samples of work (in any media format) and/or interview comments provided by participants. Contractor also agrees to provide Thrive with the results of any independent or self-directed evaluation or research undertaken with respect to the Project.

9. Subcontracting. Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of Thrive and the Department of Early Learning (DEL). All subcontracts must be in writing and in effect before Subcontractor services begin. “Subcontractor” shall mean one who is not employed by the Contractor, but who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms “Subcontractor” and “Subcontractors” mean Subcontractors in any tier. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to Thrive and DEL for any breach in the performance of the Contractor’s duties. The Contractor is responsible to Thrive and DEL for the performance and monitoring of the Subcontractor to ensure compliance with the terms, conditions, assurances, and certifications of this Contract. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this Contract.

10. Recordkeeping. Contractor agrees to keep records in an easily read form sufficient to account for all receipts and expenditures of contract funds. These records of as well as supporting documentation will be archived by Contractor’s office for at least six (6) years after the end of the Term. Contractor agrees to make such books, records, and supporting documentation available to Thrive for inspection, if requested.

11. Confidentiality. Contractor will hold in strictest confidence any non-public information that Thrive designates as being confidential during the term of this Agreement and for six (6) years
thereafter. Contractor will not disclose confidential information to any third party, and will not use any confidential information other than as necessary for Contractor to perform its obligations under this Agreement. This Section will not apply to information (a) that was known to Contractor before Thrive’s disclosure, or information that becomes publicly available through no fault of Contractor; or (b) that Contractor can demonstrate was independently developed or received by Contractor with no breach of any duty owed by a third party to Thrive independent of this Agreement. Contractor may disclose confidential information as required by applicable law, legal process or any order of a court or other governmental authority, but Contractor will give Thrive notice reasonably sufficient to allow Thrive to have an opportunity to object to such disclosure in advance, unless providing such notice would violate applicable law.

12. Intellectual Property. Contractor shall retain all copyrights and other intellectual property rights to written work produced as a result of this award, including but not limited to work product listed in Schedule B. Contractor grants to Thrive a nonexclusive, irrevocable, perpetual, and royalty-free license to access, reproduce, publish, copy, alter or otherwise use such written work, for any purpose consistent with Thrive’s continuing status as an organization described in Section 501(c)(3) of the Code. Project materials may be reproduced (but not morphed, amended, revised, or redesigned) by any other party, on a worldwide, non-exclusive basis and without fee in connection with their own educational or program purposes, but may not be used in connection with sales or distribution for profit. The owner must approve any use of project materials not specifically permitted under this provision, in advance and in writing. As appropriate, all materials shall contain an attribution of ownership.

13. Third-Party Rights. Contractor warrants that written work product produced under the terms of this Agreement will not infringe, misappropriate, or violate the rights of any third party, or incorporate or be derived from the intellectual property of any third party, without Thrive’s prior written consent.

14. Monitoring and Non-Compliance. Throughout the course of the Term, Thrive will monitor compliance with contract requirements (Schedule B, Section 1), progress toward completion of the Implementation Plan (Schedule A), and performance as outlined in Schedule D. If Thrive (a) encounters non-compliance with the terms outlined in the Agreement on the part of Contractor, or (b) is not satisfied, in its sole discretion, with the quality of Contractor’s work, Thrive will follow the make a reasonable attempt to assist Contractor with technical assistance to resolve issues that impede quality and compliance. In the event that compliance and/or quality issues are not resolved through standard technical assistance, Contractor will be engaged in corrective action through Implementation Improvement processes, as outlined in Schedule D. Failure to meet the corrective actions can result Non-Compliance Courses of Action, as outlined in Schedule D.

15. Early Termination. Thrive may terminate the contract prior to the end of the Term if satisfactory compliance is not reached after reasonable efforts have been made to restore compliance, as outlined in Schedule D. In the case of such early termination, Contractor is required to immediately repay the full amount of any funds which Contractor did not spend as of the date of the notice of termination, and Thrive shall have no further obligation to distribute any funds to Contractor.
16. **Change in Key Personnel.** The success of the approved Project is largely contingent on the Project Lead(s) identified in the proposal. Should there be any material change in job description, level of authority, or employment status of Project Lead(s) during the Term, Thrive requires that Contractor notify Thrive staff within 30 days of the change.

17. **Equipment Purchase, Maintenance, and Ownership.** The Contractor agrees that any depreciable equipment purchased, in whole or in part, with Contract funds at a cost of $1,000 per item or more, is upon its purchase, the property of Thrive and will be used only for the Project. The Contractor agrees to establish and maintain transaction documents (purchase requisitions, packing slips, invoices, receipts) and maintenance records of equipment purchased with Contract funds. The Contractor shall be responsible for any loss or damage to property of Thrive that results from the negligence of the Contractor or that results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices. In the case of Early Termination, the Contractor agrees that all such equipment will be returned to Thrive unless otherwise agreed upon in writing by the Contractor and Thrive.

18. **Nondiscrimination.** Contractor must maintain non-discriminatory policies with regard to race, color, age, gender, marital status, sexual orientation, political ideology, age, creed, religion, heritage, ancestry, national origin or sensory, mental, or physical ability throughout the Term.

19. **Warranties.** Contractor warrants that Contractor has full power and authority to enter into this Agreement and has the right to perform the Project in accordance with this Agreement.

20. **Indemnification.** As a condition to this Agreement, Contractor agrees to indemnify, defend and hold Thrive harmless and against any and all liability, loss, and expense (including reasonable attorneys’ fees) or claims for injury or damages arising out or resulting from, or that are alleged to arise out of or result from, negligent actions or omissions by Contractor or any of Contractor’s officers, agents, employees, subcontractors, contractors, or grantees with respect to this Agreement. Further, no provision of this Agreement shall inure in any way to the benefit of any third party so as to constitute such party as a third-party beneficiary of the Agreement or any one or more of the terms hereof or otherwise give rise to any cause of action in any person or entity not a party hereto.

21. **Contract Announcements; Public Reports and Use of Thrive Name and Logo.** Thrive will include information on this Agreement in Thrive’s periodic public reports and may make information about this Agreement public at any time on its web page and as part of press releases, public reports, speeches, newsletters, and other public documents. If Contractor wishes to issue a press release or report announcing this Agreement, or otherwise use Thrive's name or logo, Contractor must contact GrantsManager@thrivebyfivewa.org at least two weeks before the desired announcement or publication date. Contractor agrees to obtain advance approval from Thrive of the press release and the date of release, or of any other use of Thrive's name or logo. Thrive requests an opportunity to review and comment on subsequent press releases or reports that are directly related to this Agreement.

22. **Insurance.** Contractor will obtain, and provide proof of, insurance coverage as set out in this section. The intent of the required insurance is to protect Thrive should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or
omission of Contractor, or agents, subcontractors, or grantees thereof, in carrying out the Project. Contractor will obtain insurance coverage, which will be maintained in full force and effect throughout the Term, as follows:

a. **Commercial General Liability Insurance.** Obtain a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of Project-related activities but no less than $1,000,000 per occurrence.

b. **Automobile Liability.** In the event that Project-related activities involve the use of vehicles, whether or not owned by Contractor, automobile liability insurance will be required. The minimum limit for automobile liability is $1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage. The parties agree and acknowledge that a non owned and hired policy is acceptable if Contractor has no vehicles in its possession.

c. **Maintenance of Insurance.** Contractor will maintain the coverage described in Section 22 (a) and (b) above through either (i) its participation in a self-insurance program established pursuant to RCW 48.62, or (ii) an insurance company/ies authorized to do business within the State of Washington, and will name Thrive, its agents and employees as additional insureds under the insurance policy/ies. All policies must be primary to any other valid and collectible insurance. Contractor will instruct the insurers or self-insurance program to give Thrive thirty (30) calendar days’ advance notice of any insurance cancellation.

d. **Certificate of Insurance.** Contractor will submit to Thrive within forty five (45) calendar days of the Effective Date a certificate of insurance that reflects the coverage and limits described in Section 22 (a) and (b). Contractor will provide a renewal certificate as necessary to document compliance with this Section 22 during the Term.

e. **Industrial Insurance Coverage.** To the extent required by law, Contractor will comply with the provisions of Title 51 RCW, Industrial Insurance.

23. **Compliance with Laws.** Contractor will comply with all applicable federal, state, and local laws, rules, and regulations (including, without limitation, the Americans with Disabilities Act (ADA) of 1990, codified at 28 CFR Part 35, nondiscrimination laws and regulations, and licensing, accreditation and registration requirements and standards) in carrying out the Project.

24. **Conflict of Interest.** Notwithstanding any determination by the Executive Ethics Board or other tribunal, Thrive may, in its sole discretion, by written notice to Contractor terminate this Agreement if it is found after due notice and examination by Thrive that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW or any similar statute involving Contractor or any activities performed pursuant to the Agreement.

25. **Disputes.** Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties will select a dispute resolution team to resolve the dispute. The team will consist of a representative appointed by Thrive, a representative appointed
by Contractor, and a third party agreed to be appointed by both parties. The team will attempt, by
majority vote, to resolve the dispute. This dispute process will precede any action in a judicial or
quasi-judicial tribunal. In the event of a lawsuit involving this Agreement, venue will be proper
only in King County, Washington. Contractor acknowledges the jurisdiction of the courts of the
State of Washington in this matter.

26. Waiver of Default. Waiver of any default shall not be deemed to be a waiver of any subsequent
default by Thrive. Waiver or breach of any provision of the Agreement shall not be deemed to be
a waiver of any other or subsequent breach and shall not be construed to be a modification of the
terms of the Agreement unless stated to be such in writing, signed by an authorized
representative of Thrive and attached to the original Agreement.

27. Amendment; Assignment. This Agreement may be amended or modified only by a mutual
written agreement of the parties. Neither this Agreement, nor any claim arising under this
Agreement, may be transferred or assigned by Thrive or Contractor without prior written consent
of the other party.

28. Entire Agreement; Governing Law; Severability. This Agreement constitutes the entire
agreement and supersedes any prior oral or written agreements or communications between the
parties regarding its subject matter. The laws of Washington State shall govern this Agreement.
The provisions of this Agreement are severable so that if any term or provision is found for any
reason to be invalid, illegal, or unenforceable, such finding shall not affect the validity, construction, or enforceability of any remaining term or provision.

29. Review by Thrive. Contractor will permit representatives of Thrive to visit Contractor’s
premises and review Contractor’s activities with respect to the Project, and will permit Thrive, at
its own expense, to conduct an independent financial and/or programmatic audit of the
expenditures related to this Agreement.

30. Subgrants and Subcontracts. Your organization has been selected to participate in the Project
through the formal HVSA review process. You may not make any statement or otherwise imply
to donors, investors, media, or the general public that you are a direct grantee of the Bill &
Melinda Gates Foundation. You may state that Thrive by Five Washington is the Bill & Melinda
Gates Foundation’s grantee and that you are a subgrantee of Washington Early Learning Fund
for the Project.

31. Notices. All legal notices under this Agreement shall be addressed as follows:

   Thrive: Director of Grants Management
           Thrive by Five Washington
           111 Third Avenue, Suite 210
           Seattle, WA 98101

   Contractor: Ms Regina Delahunt, Director
               Whatcom County Health Department
               509 Girard Street
               Bellingham, WA 98225
This Agreement must be signed by an authorized officer of Contractor prior to issuance of the grant funds. Contractor may keep a copy of this Agreement as signed for its records.

WASHINGTON EARLY LEARNING FUND
d/b/a THRIVE BY FIVE WASHINGTON

By: Sam Whiting
Title: President and CEO
Date:

Whatcom County Health Department

By: Ms Regina Delahunt
Title: Director
Date:
WHATCOM COUNTY

_________________________
JACK LOUWS
County Executive

STATE OF WASHINGTON )
COUNTY OF WHATCOM )

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

_________________________
NOTARY PUBLIC in and for
the State of Washington,
residing at Bellingham.

My Commission expires:_________________

APPROVED AS TO FORM:

________________________
Deputy Prosecuting Attorney Date

7/22/14
SCHEDULE A: IMPLEMENTATION PLAN AND BUDGET

1. IMPLEMENTATION PLAN

   a. STAFFING

      • PLAN: Contractor agrees to hire and maintain staffing appropriate to serve the proposed number of children and families, as outlined in the plan below:

      | FTE Type            | Status           | As of Date         |
      |---------------------|------------------|--------------------|
      | 1.0000 FTE Home Visitor | Will be Maintained | 7/1/2014          |
      | 0.2250 FTE Home Visitor  | Will be Maintained | 7/1/2014          |
      | 0.2000 FTE Supervisor   | Will be Maintained | 7/1/2014          |

      • MODEL FIDELITY: Contractor agrees that staff will be hired in fidelity to Nurse-Family Partnership (NFP) model requirements as outlined below:
        ○ Supervisors are registered nurses with a minimum of a Bachelor’s degree in nursing.

   b. TRAINING

      • PLAN: Contractor agrees that all home visitor and supervisory staff are trained, as outlined in the plan below.

      | Training Requirement                               | Completion Date |
      |----------------------------------------------------|-----------------|
      | Home Visitor #1 Has Completed initial model training as of 7/1/2014 | Home Visitor #1 will complete ongoing education by 6/30/2015 |
      | Home Visitor #2 Has Completed initial model training as of 7/1/2014 | Home Visitor #2 will complete ongoing education by 6/30/2015 |
      | Supervisor #1 will complete annual model training by 6/30/2015    |

      • MODEL FIDELITY: Contractor agrees that training will be completed in fidelity to Nurse-Family Partnership (NFP) model requirements as outlined below:
        ○ Supervisors complete core educational requirements and additional supervisory units on an annual basis.
c. RECRUITMENT AND ENROLLMENT
   • PLAN: Contractor agrees to:
     o Recruit families from the following prioritized communities:
       ▪ Rural (35%)/Urban (65%)
       ▪ American Indian/Alaskan Native Non-Hispanic/White Non-Hispanic
       o Reach and maintain enrollment of 30 Proposed Families Served.
       o Ensure respective staff build and maintain the caseloads outlined below:

<table>
<thead>
<tr>
<th>Home Visitor #1 will maintain a caseload of 25</th>
<th>Home Visitor #1 will reach full caseload by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Home Visitor #2 will maintain a caseload of 5</td>
<td>Home Visitor #2 will reach full caseload by</td>
</tr>
<tr>
<td>To reach full caseloads, Home Visitors will enroll at a rate of 3.00 per month</td>
<td></td>
</tr>
</tbody>
</table>

   • MODEL FIDELITY: Contractor agrees that enrollment will be maintained in fidelity to Nurse-Family Partnership (NFP) model requirements as outlined below:
     o A full-time Nurse Home Visitor will carry a caseload of no more than 25 active clients.

d. HOME VISITS
   • PLAN: Contractor agrees to administer an average of 2 home visits per month to enrolled families, for a total of between 600 and 720 annually.
   • MODEL FIDELITY: Contractor agrees that home visits will be administered in fidelity to the Nurse-Family Partnership (NFP) model requirements as outlined below:
     o Client is visited throughout her pregnancy and the first 2 years of her child’s life.
     o

e. SUPERVISION
   • PLAN: Contractor agrees that:
     o Supervisor will provide 4 hours of supervision to each home visitor per month.
     o Supervisor will administer 8 hours case conferencing, group supervision, or staff meetings per month.
   • MODEL FIDELITY: Contractor agrees that supervision will be administered in fidelity to the Nurse-Family Partnership (NFP) model requirements as outlined below:
     o A full-time nurse supervisor provides supervision to no more than 8 individual home visitors and one hour of reflective supervision per week per home visitor.
f. SCREENINGS

- **PLAN**: Contractor agrees to administer screenings with the frequency outlined below:

<table>
<thead>
<tr>
<th>Demographic: Intake</th>
<th>Within 2 months of 1st Visit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maternal Health Assessment</td>
<td>Within 2 months of 1st Visit</td>
</tr>
<tr>
<td>Use of Government &amp; Community Services</td>
<td>Within 2 months of: 1st Visit; 12 months; 18 months</td>
</tr>
<tr>
<td>Health Habits</td>
<td>Within 2 months of: 3rd-4th visit; 36 weeks pregnant</td>
</tr>
<tr>
<td>Relationship Assessment: Preganacy</td>
<td>Within 2 months of: 3rd-4th visit</td>
</tr>
<tr>
<td>Edinburgh Postnatal Depression Scale or Patient Health Questionnaire - 9</td>
<td>Within 2 months of: 36 wks preg; 1-8 weeks postpartum; 12 months</td>
</tr>
<tr>
<td>Infant Birth</td>
<td>Within 2 months of: 1st postpartum visit</td>
</tr>
<tr>
<td>ASQ (ASQ-3)</td>
<td>Within 2 months of: 4 months; 14 months</td>
</tr>
<tr>
<td>ASQ-SE</td>
<td>Within 2 months of: 6 months; 18 months</td>
</tr>
<tr>
<td>Infant Health Care</td>
<td>Within 1 month of: 6 months; 12 months; 18 months</td>
</tr>
<tr>
<td>Demographic: Updates</td>
<td>Within 2 months of: 12 months; 18 months</td>
</tr>
<tr>
<td>Relationship Assessment: Infancy</td>
<td>Within 2 months of: 12 months</td>
</tr>
</tbody>
</table>

- **MODEL FIDELITY**: Contractor agrees that screenings will be administered in fidelity to the Nurse-Family Partnership (NFP) model requirements as outlined below:
  - Screenings are completed within the first 4 home visits.
## BUDGET

### Whatcom County Health NFP

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Amount</th>
<th>Comments/Justification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A. Personnel</strong></td>
<td>$115,090.00</td>
<td></td>
</tr>
<tr>
<td>Salaries and Wages</td>
<td>$16,486.23</td>
<td>225 FTE</td>
</tr>
<tr>
<td>Nurse Home Visitor 1 (EA)</td>
<td>$16,486.23</td>
<td>225 FTE</td>
</tr>
<tr>
<td>Nurse Home Visitor 2 (ES)</td>
<td>$61,962.00</td>
<td>1.0 FTE</td>
</tr>
<tr>
<td><strong>Benefits</strong></td>
<td>$36,938.77</td>
<td>Estimated cost of benefits for 1,225 NH/ve</td>
</tr>
<tr>
<td><strong>B. Staff Recruitment, Training, Retention, etc.</strong></td>
<td>$1,700.00</td>
<td></td>
</tr>
<tr>
<td>CE for Nurse Home Visitors</td>
<td>$1,200.00</td>
<td>Registration and travel</td>
</tr>
<tr>
<td>CE for Program Staff</td>
<td>$500.00</td>
<td>for registration and travel</td>
</tr>
<tr>
<td><strong>C. Travel</strong></td>
<td>$6,000.00</td>
<td></td>
</tr>
<tr>
<td>Monthly car costs</td>
<td>$6,000.00</td>
<td>$500 per month</td>
</tr>
<tr>
<td><strong>D. Equipment (Purchase, rent, maintenance)</strong></td>
<td>$1,800.00</td>
<td></td>
</tr>
<tr>
<td>Cell phone monthly costs</td>
<td>$1,800.00</td>
<td>month per phone</td>
</tr>
<tr>
<td><strong>E. Supplies (Postage, Printing, Publication, etc.)</strong></td>
<td>$3,560.00</td>
<td></td>
</tr>
<tr>
<td>Community outreach events</td>
<td>$500.00</td>
<td>Food and activity supplies for community engagement activities</td>
</tr>
<tr>
<td>Printing materials</td>
<td>$500.00</td>
<td>Printing for program forms and program outreach</td>
</tr>
<tr>
<td>Office supplies</td>
<td>$300.00</td>
<td>Desk supplies and small equipment</td>
</tr>
<tr>
<td>Medical and other program supplies</td>
<td>$750.00</td>
<td>Materials for clients</td>
</tr>
<tr>
<td>NFP Client program supplies</td>
<td>$1,500.00</td>
<td>Client program materials/incentives for 50 clients at $30/client</td>
</tr>
<tr>
<td><strong>F. Occupancy (Rent, utilities, etc.)</strong></td>
<td>$30,800.00</td>
<td></td>
</tr>
<tr>
<td><strong>G. (Subcontracts, Consulting, Printing, etc.)</strong></td>
<td>$30,800.00</td>
<td></td>
</tr>
<tr>
<td>NFP Nursing Supervisor - Skagit HD</td>
<td>$30,800.00</td>
<td>2 FTE for contracted NFP Nursing Supervision</td>
</tr>
<tr>
<td>20% of NFP NSO Annual Contract</td>
<td>$2,800.00</td>
<td>20% of shared annual NFP NSO contract cost</td>
</tr>
<tr>
<td><strong>H. Evaluation Stipend</strong></td>
<td>$0.00</td>
<td></td>
</tr>
<tr>
<td><strong>I. Travel Stipend - Thrive mandatory trainings</strong></td>
<td>$1,799.00</td>
<td></td>
</tr>
<tr>
<td>Travel Stipend - Thrive mandatory trainings</td>
<td>$1,799.00</td>
<td></td>
</tr>
<tr>
<td><strong>J. Indirect Charges if not included above</strong></td>
<td>$16,080.00</td>
<td>10% Indirect</td>
</tr>
<tr>
<td><strong>K. TOTAL</strong></td>
<td>$176,799.00</td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE B: CONTRACTOR REQUIREMENTS AND PAYMENT SCHEDULE

1. Contractor Requirements

a. Individualized Assessments. Contractor will administer individualized assessments of participant families, and services will be provided in accordance with those individual assessments.

b. Voluntary Services. Services will be provided to clients only on a voluntary basis.

c. Priority Participants. Priority will be given to serve eligible participants who:

- Have low incomes;
- Are pregnant women who are under 21;
- Have a history of child abuse and neglect or have had interactions with child welfare services;
- Have a history of substance abuse or need substance abuse treatment;
- Are users of tobacco products in the home;
- Have, or have children with, low student achievement;
- Have children with developmental delays or disabilities;
- And/or are in families that include individuals who are serving or have formerly served in the armed forces, including such families that have members of the armed forces who have multiple deployments outside of the United States.

d. Capacity Assessment. Contractor will develop and submit an Annual Capacity Assessment detailing community and organizational readiness and capacity for implementation of home visiting services with fidelity (prior to the Term). Materials provided in the Annual Capacity Assessment will be used to inform the Agreement.

e. Implementation Plan. Contractor will develop an Implementation Plan to guide program implementation (prior to the Term).

f. Annual Orientation Webinar. Contractor will participate in an annual orientation webinar providing any updates on requirements associated with HVSA funding. The webinar will be held on July 8, 2014.

g. HVSA Trainings. Contractor will participate in two full-day trainings.

- HVSA Training 1: November 6, 2014
- HVSA Training 2: April 16, 2015

h. Technical Assistance Coaching Calls. Contractor will participate in monthly one-hour Technical Assistance calls with Thrive staff and Thrive Consultants for Continuous Quality Improvement.

i. Site Visits. Contractor will cooperate with up to eight (8) scheduled site visits conducted for grant compliance, organizational due diligence, HVSA evaluation, quality implementation technical assistance, and continuous quality improvement.
j. **Quarterly Program Reports.** Contractor will submit four (4) program reports online no later than the dates outlined below in the Payment Schedule. Program reports will include, but are not limited to, the following information:

- Participant Demographics
- Implementation Progress
- Implementation Reflection
- Select Fidelity Measures

k. **Monthly Enrollment Numbers.** Contractor will submit monthly Enrollment Numbers Reports online no later than the dates outlined below in the Payment Schedule. Monthly Enrollment Reports will include the number of children, female and male parents/caregivers, and families enrolled for the previously completed month, the number of new family enrollments during the month, the number of families that completed the program; the number of families that exited the program; and the number of home visits administered.

l. **Quarterly Financial Activity Reports.** Contractor will submit four (4) Financial Activity Reports online no later than the dates outlined below in the Payment Schedule. Financial Activity Reports will include cumulative expenditures incurred for the quarter compared to line items identified in the budget in Schedule A, section 3.

m. **Monthly Financial Line Item Reports.** Contractor will submit monthly Financial Line Item Reports online no later than the dates outlined below in the Payment Schedule. Monthly Financial Line Item Reports will include expenditures incurred for the month for each expense category in the proposed budget. Contractor will be reimbursed for the expenses reported in the Monthly Financial Line Item Report.

n. **Additional Requirements.** Contractor will maintain and make available to Thrive, if requested, documentation demonstrating accomplishments of the Agreement. Such documentation may include, but is not limited to:

- Services Provided, Service Dates, and Number of Service Hours
- Data Collection and Assessments by Participants
- Completed Evaluation Tools
- Attendance Sheets
- Service Logs
- Demographic Information of Participants
2. **Payment Schedule.** The Payment Schedule below is based on the assumption that state and private revenue commitments to Thrive have been maintained, and that such funds are available to Thrive for disbursement to the Contractor. In the event that revenue commitments are not available to Thrive, Thrive reserves the right to amend the payment terms and the amount of the Contract Total.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Due Date</th>
<th>Reporting Period</th>
<th>Payment Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Assistance Coaching Calls</td>
<td>Monthly</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Site Visits</td>
<td>TBD</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>HVSA Orientation Webinar</td>
<td>July 8, 2014</td>
<td>NA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signed Agreement</td>
<td>August 1, 2014</td>
<td>NA</td>
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<td>Proof of Insurance</td>
<td>August 1, 2014</td>
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<tr>
<td>HVSA Training 1</td>
<td>November 6, 2014</td>
<td>NA</td>
<td>December 5, 2014</td>
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<td>HVSA Training 2</td>
<td>April 16, 2015</td>
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<td>July 31, 2015</td>
<td>April 1-June 30, 2015</td>
<td>MAXIMUM CONTRACT TOTAL</td>
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SCHEDULE C: DATA COLLECTION AND EVALUATION REQUIREMENTS

1. HVSA Evaluation Background. Thrive by Five Washington (Thrive) and the Department of Early Learning (DEL) partner in the operation of the Home Visiting Services Account (HVSA). The HVSA conducts research and evaluation activities of all federally, state and privately funded HVSA Contractors. The HVSA seeks to bring parity of evaluation supports to HVSA Contractors across funding streams. Thrive, on the behalf of the HVSA, has engaged the Center for Community Health and Evaluation (CCHE) to provide data collection, training, evaluation services and supports to HVSA state and privately funded Contractors.

2. HVSA Evaluation Overview. The HVSA state and privately funded evaluation (HVSA evaluation) is designed to tell the story of home visiting in Washington State and how it contributes to an early learning system that ensures all children start life with a solid foundation for success. The HVSA evaluation seeks to:
   a. Describe and provide context to HVSA services and supports designed to increase the capacity of home visiting at the local and state-wide level
   b. Provide evaluation support and service designed to assist Contractors in meeting model fidelity requirements, increase evaluation skill, data management, quality of data collection, and use of data for decision making
   c. Coordinate with other home visiting research and evaluation efforts in Washington—including alignment with standardized “benchmark” data measures when feasible
   d. Communicate HVSA evaluation findings to a wide variety of stakeholders and audiences
   e. Facilitate strategic learning from home visiting evaluation findings to support the HVSA, Contractors, the families they serve, communities, stakeholders, and the broader field of early learning

3. Contractor HVSA Evaluation Activities and Requirements. As a recipient of HVSA state and private funding, the Contractor is required to participate in, and cooperate with the HVSA, the Thrive Implementation HUB (HUB), and CCHE in HVSA evaluation activities and requirements including, but not limited to:
   a. Onsite and other types of meetings with CCHE and HUB staff to gain information on the Contractors current evaluation, training, data collection, and reporting requirements
   b. Participation with CCHE in the development of a supports, services and technical assistance designed to optimize data collection efforts, evaluation practices and activities, and ensure the accuracy of evaluation reports including:
   c. Staff training and supervisory practice
   d. Data collection and reporting
   e. Continuous Quality Improvement (CQI) activities related to data and evaluation
   f. Alignment and coordination with efforts in support of other HVSA research, evaluation, and systems supports
   g. Participation in HVSA, HUB, and CCHE efforts and meetings to develop definitions, metrics, activities, and reporting requirements related to:
      - Staffing levels
      - Enrollment status
      - Program process and outcome measures
      - Financial reporting
• Assurance of model fidelity

h. Creating local/regional CQI teams of HVSA Contractors
i. Emerging and non-routinized data and evaluation requests from funders of the HVSA

4. Contractor HVSA Data Collection Activities and Requirements. The Contractor will meet HVSA data collection efforts and requirements listed below. Requirements include:

a. Cooperation and participation with CCHE in HVSA efforts to enhance required data collection protocols including but not limited to: data elements, processes, and data-sharing agreements
b. Execution of a data-sharing agreement with CCHE to share HVSA-related data
c. Collection of de-identified data for families who receive services funded through the HVSA
d. Collection and reporting of supplemental or modified data in alignment with the HVSA state benchmarks plan where feasible
e. Cooperation with Thrive and/or CCHE to establish effective data reporting mechanisms required for timely (within five business days) reporting of data related to existing, emerging and non-routinized data and evaluation requests from HVSA funders
SCHEDULE D: MONITORING, IMPLEMENTATION IMPROVEMENT PROTOCOLS, AND NON-COMPLIANCE PROCEDURES

1. **Monitoring.** Thrive will monitor Contractor compliance with contract requirements, implementation progress, and performance.

   a. **Compliance with Contract Requirements.** Thrive will ensure all Contractor Requirements, as outlined in Schedule B, section 1, are submitted in a complete and high-quality way. Failure to submit timely and complete materials will result in withheld payments.

   b. **Implementation Progress.** Thrive will review progress toward completion of the Implementation Plan outlined in Schedule A on a quarterly basis. Progress will be reviewed with respect to the following Implementation Plan categories: Staffing, Training, Enrollment, Home Visits, Supervision, and Screenings. Delay of more than a quarter in meeting timelines for 2 or more deliverables will result in transition to “Implementation Improvement Status.”

   c. **Performance.** Thrive will review performance for the following measure: Percentage of Families Enrolled to Proposed Families Served.

      o **Start-Up Programs.** Contractors receiving year one of HVSA funding are considered “Start-Up Programs.” Start-Up Programs develop an Implementation Plan that outlines the timeline to reach full caseload. Progress toward building caseload will be reviewed on a monthly basis. Contractors not building caseload in accordance with the timeline outlined in the Implementation Plan will be transitioned to “Implementation Improvement Status.”

      o **All Other Programs.** Contractors receiving year two of HVSA funding or greater are expected to maintain 80% enrollment of the “Proposed Families Served” during the Term. Enrollment numbers will be reviewed on a monthly basis.

         i. Contractors enrolling 70%-79% of proposed families served for two or more consecutive months will receive written notification of their low enrollment status and a follow-up call to discuss barriers and strategies for increasing enrollment.

         ii. Contractors maintaining less than 70% enrollment for two or more consecutive months will be transitioned to “Implementation Improvement” status.

2. **Implementation Improvement Status.** Contractors transitioned to Implementation Improvement status are required to follow the protocol outlined below:

   a. **Completion of Self-Assessment:** Contractor will complete a Self-Assessment describing current implementation capacity, barriers to implementation and enrollment, and outreach and recruitment strategies.

   b. **Participation in Site Visit:** Contractor will participate in a Site Visit with Thrive staff. The purpose of the site visit is review key implementation and performance data and develop an Implementation Improvement Plan, described below.

   c. **Development of an Implementation Improvement Plan:** Contractor will collaborate with Thrive to develop an Implementation Improvement Plan which will:
• Cite and describe the specific issue(s) Implementation Progress and/or Performance issues.
• Describe a protocol for corrective action.
• Outline a required timeline for corrective action.

Failure to meet the corrective actions outlined in the Implementation Improvement Plan in the timeline outlined in the Implementation Improvement Plan can result in designation as Non-compliant.

3. **Non-Compliance Courses of Action.** In the event that the Contractor is deemed “non-compliant,” Thrive will issue a Notice informing the Contractor of one of three courses of action:

   a. **Suspension of Payment:** Thrive may suspend payment of funds until satisfactory contract compliance is met.
   
   b. **Reduction in Maximum Contract Total.** Thrive may reduce the Maximum Contract Total to reflect the number of families served.
   
   c. **Early Contract Termination.** Thrive may terminate the contract prior to the end of the Term if satisfactory compliance is not reached after reasonable efforts have been made to restore compliance. (Agreement, clause 14).

Contractor will be informed in writing a minimum of thirty (30) days prior to the effective date of such action.
## Mental Health Court Funding Estimates (monthly)

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<th>Item</th>
<th>Total Monthly Hours</th>
<th>Rate</th>
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<tr>
<td>Court Calendars (two)</td>
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<td>Team Meetings (two)</td>
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<td>Case Screening Time*</td>
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<tr>
<td>Administrative file monitoring and tracking*</td>
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<tr>
<td>Ongoing High level administrative planning, form and process review*</td>
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<td>No funds requested</td>
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**Total monthly estimate of mental health court funding**

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<tr>
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* Costs absorbed by existing staff resources
**Whatcom County Council Agenda Bill**

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<th>Clearances</th>
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<th>Assigned to</th>
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**Title of Document:** Consultant Services for the Aggregate Resource Inventory Study Update

**Attachments:** Cover Memo, Contract Information Sheet, Contract, Exhibits

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

**Should Clerk schedule a hearing?** (x) Yes ( ) No  
**Requested Date:**

**Summary Statement or Legal Notice Language:**
In 2003 an Aggregate Resource Inventory Study was completed with the purpose of providing additional information regarding potential aggregate resources within Whatcom County. The study concluded that there was approximately 35 years of measured resources that could be used for construction aggregate within existing Mineral Resource Land Designations. This contract will satisfy Mineral Resource Action Plan Item #10 of the Comprehensive Plan, which is to “Budget for and update the Aggregate Resource Inventory study to document the short and long range availability and location of quality mineral resources.”

**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.
Enclosed are two (2) originals of the contract between ELEMENT Solutions and Whatcom County for your review and signature.

- **Background and Purpose**
  In 2003 an Aggregate Resource Inventory Study was completed with the purpose of providing additional information regarding potential aggregate resources within Whatcom County. The study concluded that there was approximately 35 years of measured resources that could be used for construction aggregate within existing Mineral Resource Land Designations. This contract will satisfy Mineral Resource Action Plan Item #10 of the Comprehensive Plan, which is to “Budget for and update the Aggregate Resource Inventory study to document the short and long range availability and location of quality mineral resources.

- **Funding Amount and Source**
  $25,000 was included in the budget for professional services as part of the Comprehensive Plan update.

Please contact Joshua Fleischmann at extension 50796 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>Planning &amp; Development Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Joshua Fleischmann</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>ELEMENT Solutions</td>
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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 # Click here to enter text.

Does contract require Council Approval? Yes ☒ No ☐ If No, include WCC Click here to enter text.
(see Whatcom County Codes 3.06.010, WCC 3.08.090 and 3.08.100)

Is this a grant agreement?
Yes ☐ No ☒ If yes, grantor agency contract number(s) Click here to enter text. CFDA # Click here to enter text.

Is this contract grant funded?
Yes ☐ No ☒ If yes, associated Whatcom County grant contract number(s) Click here to enter text.

Is this contract the result of a RFP or Bid process?
Yes ☒ No ☐ If yes, RFP and Bid number(s) 14-41 Cost Center: 2500

Is this service agreement excluded from E-Verify? Yes ☒ No ☐ If yes, indicate exclusion(s) below.
☐ Professional services agreement for certified/licensed professional
☐ 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 Gov’t’s)
☐ Public Works - Local Agency/Federally Funded FHWA

Contract Amount: (sum of orig contract and any prior amendments) $25,000.00
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 $50,000.
- 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.

Scope of Services
In 2003 an Aggregate Resource Inventory Study was completed with the purpose of providing additional information regarding potential aggregate resources within Whatcom County. The study concluded that there was approximately 35 years of measured resources that could be used for construction aggregate within existing Mineral Resource Land Designations. This contract will satisfy Mineral Resource Action Plan Item #10 of the Comprehensive Plan, which is to “Budget for and update the Aggregate Resource Inventory study to document the short and long range availability and location of quality mineral resources.”

Term of Contract:
Expiration Date: (2-3)-14

Contract Routing Steps & Signoff:
1. Prepared by: IF Date 8/19/14
2. Attorney reviewed: RB Date 8/25/14
3. AS Finance reviewed: B Date 9/4/14
4. IT reviewed if IT related
5. Attorney signoff: Date
6. Contractor signed: Date 9-5-14
7. Submitted to Exec Office Date 9-5-14
8. Council approved (if necessary) Date
9. Executive signed:
10. County Original to Council
ELEMENT Solutions, hereinafter called Contractor, and Whatcom County, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

General Conditions, pp. 3 to 7.
Exhibit A (Scope of Work), pp. 8 to 9.
Exhibit B (Compensation), pp. 10 to 12.

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

The term of this Agreement shall commence on the 20th day of September, 2014, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2014.

The general purpose or objective of this Agreement is to update the Mineral Resource Action Plan, as more fully and definitively described in Exhibit A hereto. The language of Exhibit A controls in case of any conflict between it and that provided here.

The maximum consideration for the initial term of this agreement or for any renewal term shall not exceed $25,000.00. 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 5th day of September, 2014.

CONTRACTOR:

ELEMENT Solutions

Paul Pittman, Earth Sciences Manager - Principal

STATE OF WASHINGTON

) ss.

COUNTY OF WHATCOM

On this 5th day of Sept., 2014 before me personally appeared Paul Pittman, to me known to be the Principal (title) of Element Solutions (Company) and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

Notary Public

My commission expires 12-9-17.

State of Washington Notary Public

M. Vandermall
WHATCOM COUNTY:
Recommended for Approval:

Date

Approved as to form:

Date

Approved:
Accepted for Whatcom County:

By: 
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON 
COUNTY OF WHATCOM 

ss

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

NOTARY PUBLIC in and for the State of Washington, residing at ______________, My commission expires _____________.

__________________________

CONTRACTOR INFORMATION:

ELEMENT Solutions
1812 Cornwall Avenue
Bellingham, WA 98225
(360)671-9172
ppittman@elementsolutions.org
GENERAL CONDITIONS

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

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

Series 10-19: Provisions Related to Term and Termination

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

10.2 Extension:
The duration of this Agreement may be extended by mutual written consent of the parties, for a period of up to one year at a time, and for a total of no longer than three years.

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

11.2 Termination for Reduction in Funding: 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

Contract for Services Agreement
ELEMENT SOLUTIONS
v 1.0

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received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

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

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

23.1 Labor Standards: 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 on a Schedule C, 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.

Contract for Services Agreement
ELEMENT SOLUTIONS

Page 4

v 1.0
31.2 Patent/Copyright Infringement: Not Applicable

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

33.1 Right to Review: Not Applicable

34.1 Proof of Insurance: This insurance shall be considered as primary and shall waive all rights of subrogation. The county insurance shall be noncontributory.

34.2 Industrial Insurance Waiver: Not Applicable

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, 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, 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, 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: Not Applicable

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 Contractor or the County, the Contractor shall immediately give written notice thereof to the County. The Contractor shall be entitled to continue to perform hereunder if the County, in its sole discretion, determines that the interest is not in conflict with the Contractor or the County.

Contract for Services Agreement
ELEMENT SOLUTIONS

v 1.0
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:

J.E. “Sam” Ryan, Director, Whatcom County Planning and Development Services

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 the in the US Mail, first class, postage prepaid.

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

Contract for Services Agreement
ELEMENT SOLUTIONS

v 1.0
claim. Contractor shall keep full and complete daily records of the work performed, labor and material used, and all costs and additional time claimed to be additional.

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

d. Arbitration: Not Applicable

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

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

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

SCOPE OF SERVICES

Purpose and Scope:
The purpose of the proposed Aggregate Resource Inventory Study Update is to
1) Provide an approximate abundance of sand, gravel, and hard rock mineral reserves
currently available in existing designated MRL areas
2) Update the existing MRL reserves lifespan

Regular communication with Whatcom County in the form of periodic verbal progress reports,
review drafts, and a final report will serve to guide the work plan from contract through
completion. The geographic scope of the project area will include existing MRL designated areas.

The tasks necessary to update the 2003 aggregate inventory assessment are:

Task 1: Information Gathering
a. Compile and evaluate existing information, including:
   • GeoEngineers, 2003 (report and GIS data)
   • WA DNR
   • Whatcom County
b. Obtain and review permit info (for volumetric analysis).
   • Whatcom County Surface Mining Registration Forms
   • DNR permitted sites records
c. Determine operator contacts and obtain contact info.
d. Write and mail questionnaire and/or interview request form to operators.
e. Interview operators, stakeholders, regulators.
f. On-site field reconnaissance of unresolved areas (up to six brief site visits).
g. Summarize interviews; verify quantitative data, fact check.

Task 2: Data Analysis
a. Evaluate change in aggregate and hard rock mineral deposits since previous
   estimates using:
   i. Interview, permitting, and records information.
      1. Whatcom County records
      2. DNR records
      3. Private operators.
   ii. LiDAR cut/fill analysis (where applicable) and orthophoto analysis.
   iii. Physical site inspection (if feasible and permissible for up to 6 sites).
b. Conduct demand analysis using population growth since previous study using
   Integrate with an existing estimate of per capita consumption. Identify and
   assess viability of alternatives to traditional concrete and asphalt products.
c. Develop estimate of existing proven reserves (permitted and unpermitted) above and below the estimated water table within current MRL areas using information obtained through data gathering and previous studies.
d. Estimate depth of overburden in MRLs based on existing available information.

Task 3: Compilation, geodatabase creation, and synthesis
a. Calculate estimated reserves and timeline predictions for cumulative resource exhaustion in existing MRLs, including an overview of potential mineral resources located outside of MRLs.
b. Compile information into geodatabase that includes data for deposit volume, known, proven, and estimated reserves by category.
c. Prepare figures, tables, and information for final report.

Task 4: Report finalization, submittal, and presentation
a. Attend up to 2 Surface Mining Advisory Committee (SMAC) meetings to update SMAC on report progress.
b. Write draft for final report, submit for review.
c. Make revisions as necessary, submit final draft of report.
d. Presentation of final report to SMAC
e. Final report submittal.
f. Presentation of final report to County Council
EXHIBIT "B"
(COMPENSATION)

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 below in the project budget. Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed. Mileage at IRS rate, lodging and per diem at a rate not to exceed the GSA rate for location services are provided. Reimbursement for expenditures such as printing and postage shall be reimbursed at actual cost.

Contractor will invoice monthly. Invoices will include hours worked by employee by day together with tasks accomplished. Requests for reimbursement of expenses must be accompanied by copies of paid invoices itemizing costs incurred. Compensation shall not exceed $25,000. 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.

<table>
<thead>
<tr>
<th>Staff Rate</th>
<th>Micah (ELEMENT)</th>
<th>Paul (ELEMENT)</th>
<th>Chuck (AESI)</th>
<th>Letitia (Wheeler)</th>
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<td>a) Compile and evaluate existing info</td>
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<td>b) Obtain and review permit info</td>
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<td>c) Determine operator contact info</td>
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<td>d) Write and mail questionnaire (including followup)</td>
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<td>e) Interview operators, stakeholders, regulators</td>
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<td>f) Prioritized field recon at unresolved areas (maximum 6 sites)</td>
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<td>g) Summarize interview, verify quantitative info, fact check</td>
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**TASK 1 Totals**

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### TASK 2: Data Analysis

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<td>a) Evaluate change in aggregate and hardrock depositions since 2000</td>
<td>24</td>
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<td>b) Assess consumption rate</td>
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<td>c) Develop estimate of existing proven (permitted/unpermitted) reserves</td>
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<td>2</td>
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<td>within current MRL (gravel, sand, rock)</td>
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<tr>
<td>Estimate depths of overburden</td>
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**TASK 2 Totals**

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### TASK 3: Compilation, geodatabase, synthesis

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<tr>
<td>a) calculate estimated MRL resource exhaustion rate</td>
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<tr>
<td>b) Compile information into geodatabase</td>
<td>16</td>
<td>2</td>
<td>$1,450</td>
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<tr>
<td>c) prepare figures, tables and information for final report</td>
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**TASK 3 Totals**

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**TASK 4: Report finalization, submittal and presentation**

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<td>b) Write draft for review</td>
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<td>c) Revisions</td>
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<td>d) Presentation of final report to SMAC</td>
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<td>e) Final submittal</td>
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<tr>
<td>f) Presentation to County Council</td>
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<td>2</td>
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<td>$250</td>
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</tbody>
</table>

**TASK 4 Totals**

- Hours: 48
- Tasks: 16
- Notes: 8
- Cost: $8,200

**TOTALS**

- Hours: 226
- Tasks: 33
- Notes: 15
- Cost: $24,970
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Originator: JPR 9/3/2014
Division Head: JPR 9/3/2014
Dept. Head: 9/3/2014
Prosecutor: 09/04/14
Purchasing/Budget: 9/8/14
Executive: 9/8/14

TITLE OF DOCUMENT:
Resolution in the matter of the Whatcom County Six-Year Transportation Improvement Program for the years 2015 through 2020

ATTACHMENTS:
1. Memo to County Executive and Council
   Attachment “A” – 2015-2020 Capital Project Priority Order and Financial Distribution by Year
   Attachment “AI-AS8” – Project Summary Sheets
   Attachment “B1-B4” – Road Fund Balance, Revenue, Expenditure, and Capital Funding Projections
   Attachment “C” – Roadway Priority Rating Program
   Attachment “D” – Bridge Report
2. 2015-2020 Six Year Transportation Improvement Program Resolution
   Exhibit “A” – 2015-2020 Six-Year Transportation Improvement Program
   Exhibit “B” – 2015-2028 Fourteen-Year Ferry Capital Program

SEPA review required? (X) Yes ( ) NO
SEPA review completed? (X) Yes ( ) NO
Should Clerk schedule a hearing? (X) Yes ( ) NO
Requested Date: 9/30/2014

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.)
Each year the County is required to update its Six-Year Transportation Improvement Program (STIP), per RCW 35.77.010 and RCW 36.81.121. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Program. The STIP is intended as a planning tool for local, state and federally funded projects and is designed to identify projects for preliminary engineering, right-of-way purchase and/or construction.

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.
Memo

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

Through: Frank M. Abart, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: September 3, 2014

Re: Six-Year Transportation Improvement Program, 2015-2020
PW Committee Work Session, Introduction, Public Hearing and Adoption

Requested Action:
The Department of Public Works requests that a Council Public Works Committee work session be scheduled for September 16th, for discussion of the information attached to this memorandum regarding the 2015-2020 Six-Year Transportation Improvement Program (STIP). If approved by the Committee we request that the STIP Resolution and its associated exhibits, 2015-2020 Six-Year Transportation Improvement Program and 2015-2028 Fourteen-Year Ferry Capital Program, be introduced at that evenings County Council meeting. We then request that a public hearing be advertised for and held at the September 30th County Council meeting, with the resolution potentially adopted at said meeting.

Background and Purpose:
Each year the County is required to update its Six-Year Transportation Improvement Program, per RCW 35.77.010 and RCW 36.81.121. The County is also required to prepare a Fourteen-Year Ferry Capital Program each year per RCW 36.54.015. The STIP includes the capital elements of the first six years of the Fourteen-Year Ferry Capital Program which is Exhibit “B” of the resolution.

Information:

1- Memorandum to County Executive and Council
   Attachment “A” - 2015-2020 Capital Projects Financial Distribution by Year
   Attachment “A1-A58” - Project Summary Sheets
   Attachment “B1” - Road Fund Balance Projections
   Attachment “B2” - Road Fund Revenue Projections
   Attachment “B3” - Road Fund Expenditure Projections
   Attachment “B4” - Funds Available for Capital Projects
   Attachment “C” - Roadway Priority Rating Program
   Attachment “D” - Bridge Report

   Attachment “A” is a simplified form of Exhibit “A” to the STIP. This simplified form shows priority order of proposed projects as well as expenditures by year. This is being provided in order to facilitate the Public Works Committee work session.

2- 2015-2020 Six Year Transportation Improvement Program Resolution
   Exhibit “A” - 2015-2020 Six-Year Transportation Improvement Program
   Exhibit “B” - 2015-2028 Fourteen-Year Ferry Capital Program
## 2015-2020 Six Year Transportation Improvement Program
### Financial Distribution by Year

**Attachment A**

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249
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<td>50 Subdivision Overlay</td>
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<td>$150</td>
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<td>55 Non Motorized</td>
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<td>13,362</td>
<td>3,898</td>
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Birch Bay Lynden Road/Portal Way
Signalization
CRP #901011

Construction Funding Year(s): 2014 / 2015

Project Narrative:
This project is located south of Blaine and west of I-5, in Section 22, T40N, R1E. Proposed improvements include signalization, channelization and illumination of the intersection with minor changes to the vertical and horizontal alignment. Stormwater treatment and detention will also be implemented into this project. This project is listed #1 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
The project is near substantial completion in September 2014. Physical completion in early 2015, after wetland mitigation planting is completed.

Total Estimated Project Cost: $4,300,000
Expenditures to Date: $3,400,000

Funding Sources:

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<th>Source</th>
<th>Amount</th>
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<td>$ 750,000 RAP</td>
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<td>Local</td>
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Environmental Permitting: SEPA, Corps of Engrs, CLR/CAO, HPA
Right-of-Way Acquisition (Estimate): Complete
County Forces (Estimate): N/A
Birch Bay Drive and Pedestrian Facility
CRP #907001

Construction Funding Year(s): 2016 / 2017

Project Narrative:
This project is located parallel to Birch Bay Drive from Cedar Avenue to the mouth of Terrell Creek, in Sections 30 and 31, T40N, R1E, and Sections 24 and 25, T40N, R1W. This is a 1.58 mile separated berm with pathway to encourage pedestrian use along Birch Bay Drive to support safety and to protect the roadway from storm damage. In addition, the project will provide mitigation for both beach erosion and roadway protection. This project is listed #2 on the 2015-2020 Six-Year Transportation Improvement Program.

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 began in late 2013, RW acquisition will begin in 2014/2015 and construction in 2016/2017. Additional funding sources will be pursued as they become available.

| Total Estimated Project Cost: | $11,450,000 |
| Expenditures to Date:         | $400,000    |

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<tr>
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<tr>
<th>Environmental Permitting</th>
<th>Whatcom County-Shorelines; WDFW-HPA, Army Corps of Engineers, DOE; Sec 404 Clean Water Act</th>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
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</table>
Birch Bay Drive, Embankment Repair
CRP # Not Assigned

Construction Funding Year(s): 2015

Project Narrative:
This project is an embankment repair near Lora Lane in Section 30-31 of T40N, R1E. This project is listed #3 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:

| Total Estimated Project Cost: | $ 250,000 |
| Expenditures to Date:         | $0        |

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
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</table>

Environmental Permitting       HPA, SEPA, County Shorelines, ACOE
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate)       $200,000
Lake Whatcom Boulevard, Phase I
Re-surfacing
CRP #913002

Construction Funding Year(s): 2015

Project Narrative:
This project is located approximately 1 mile east of Bellingham, in Sections 35 and 36, T38N, R3E. The work will involve roadway improvements to a 1.6 mile section of Lk Whatcom Blvd between Cable Street and Strawberry Point, including: pavement rehabilitation down to subgrade, upgrades to pavement markings and signage. This project is listed #4 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Survey work and design will begin in 2014. Construction time frame will be 2015.

| Total Estimated Project Cost: | $1,500,000 |
| Expenditures to Date:          | $15,000    |
| Funding Sources:               |            |
| Federal                       | $0         |
| State                         | $0         |
| Local                         | $1,500,000 |

Environmental Permitting      SEPA, CLR/CAO, Shorelines
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate)      $10,000
**Lake Whatcom Boulevard, Phase II**

**Water Quality Improvements**

**CRP # Not Assigned**

<table>
<thead>
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<th>Construction Funding Year(s):</th>
<th>TBD</th>
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</thead>
</table>

**Project Narrative:**

This project is located approximately 1 mile east of Bellingham, in Sections 35 and 36, T38N, R3E. The work will involve drainage improvements to a 1.6 mile section of Lk Whatcom Blvd between Cable Street and Strawberry Point, addressing stormwater quality issues. This project is listed #5 on the 2015-2020 Six-Year Transportation Improvement Program.

**Project Status:**

Survey work with associated base map and RW research will begin in 2014. Preliminary design will be initiated to evaluate RW needs, permit requirements and overall project costs. Construction time frame will be contingent on addressing funding needs along with resolution of permitting and RW issues.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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<td>Expenditures to Date:</td>
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**Funding Sources:**

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<tr>
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<tr>
<td>Local</td>
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<table>
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<tr>
<th>Environmental Permitting</th>
<th>SEPA, CLR/CAO, Shorelines</th>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
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</tr>
<tr>
<td>County Forces (Estimate)</td>
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</table>
Whatcom County Public Works
Project Narrative

Slater Road and Northwest Drive
CRP # 914001

Construction Funding Year(s): TBD

Project Narrative:
The intersection of Slater and Northwest Roads is in Section 2 of T38N, R2E. This three-legged intersection currently experiences delays due to the lack of channelization and stop control for left-turn movements. The first phase of this project is to analyze a range of intersection improvements with their associated benefits, limitations and costs. This project is listed #6 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Traffic counts and warrants completed. Alternatives analysis in 2014. Design, permitting, RW and construction time frames would be contingent on alternative(s) chosen.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ TBD</th>
<th>Funding Sources:</th>
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<tbody>
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<tr>
<td></td>
<td>State $0</td>
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<tr>
<td></td>
<td>Local $250,000 (STIP 2015)</td>
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Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
# Roadway Frost Depth Detectors
## CRP # Not Assigned

### Construction Funding Year(s):
- 2016

### Project Narrative:
This item provides funding to address replacement of the County's aging network of roadway frost depth detectors. These detectors are critical for implementing appropriate roadway restrictions to prevent structural damage following periods of deep frost. It is listed #7 on the 2015-2020 Six Year Transportation Improvement Program.

### Project Status:

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Federal</td>
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<td>State</td>
<td>$</td>
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<tr>
<td>Local</td>
<td>$250,000 (STIP 2015-2016)</td>
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| Environmental Permitting     | TBD      |
| Right-of-Way Acquisition (Estimate) | TBD      |
| County Forces (Estimate)     | TBD      |

Due to the nature of this item, no map exists. Location of the new roadway frost depth detectors will be determined in 2015.
Lummi View Drive Bank Stabilization
CRP # 908001

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Section 2,T37N, R1E. This project is listed #8 on the 2015-2020 Six-Year Transportation Improvement Program. This project will consist of repair and stabilization of a ocean bluff failure that threatens a section of Lummi View Drive.

Project Status: Survey and preliminary cost scoping to be performed in 2015.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $2,500

Funding Sources:
- Federal: $0
- State: $
- Local: $30,000 (STIP 2015)

Environmental Permitting: SEPA, CLR/CAO
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
North Shore Road
Bellingham City Limits to Y Road
CRP # 902007

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Sections 25 and 26, T38N, R3E. The work will involve improvements to a 2.87 mile section of the North Shore Road from the Bellingham City Limits to 'Y' Road, including: various spot improvements to address horizontal and vertical alignment deficiencies; spot safety upgrades, and stormwater quality treatment. This project is listed #9 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Selection of spot improvement locations with associated survey work, base map preparation and R/W research will begin in 2014. Preliminary design and construction time frames will be contingent on resolution of funding needs, along with permitting and R/W issues associated with the selected sites.

Total Estimated Project Cost: $4,500,000
Expenditures to Date: $0

Funding Sources:
- Federal: $0
- State: $0
- Local: $4,500,000 (Grant funding will be sought)

Environmental Permitting: SEPA, CLR/CAO, Shorelines
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
**Lummi Nation Transportation Projects**
**CRP #912017**

**Construction Funding Year(s):** 2015

**Project Narrative:**
The Lummi Nation Transportation Projects is located in Section 2, T37N, R1E and Section 34, T38N, R1E. This work, in fulfillment of the ferry lease obligation, involves the construction of transportation improvement projects in accordance with Exhibit C of the October 27, 2011 Uplands Lease Agreement for Lummi Island Ferry Use at Gooseberry Point. This project is listed #10 on the 2015-2020 Six-Year Transportation Improvement Program.

**Project Status:**
Projects funds will be available for expenditure when funds of equal or greater value are matched by the Lummi Nation.

<table>
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<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>N/A</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this item, no map exists. Location of the new transportation projects will be determined in 2015.
Point Roberts Transportation Improvements  
CRP # 910002

Construction Funding Year(s): 2015 / 2016 / 2017

Project Narrative:
Point Roberts is located in T40N and T41N, R3W. The proposed improvements would be specific to area needs and the development of projects to be funded by the Pt. Roberts Transportation Benefit District. This project is listed #11 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Public Works has assigned staff working with the Point Roberts Transportation Benefit District Advisory Committee to coordinate project evaluation and selection.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$1,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
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</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting   TBD
Right-of-Way Acquisition (Estimate)   TBD
County Forces (Estimate)   TBD

Due to the nature of this item, no map exists. Location of the new transportation projects will be determined in 2015.
East Smith Road
Everson-Goshen Road to SR 542
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This East Smith Road project is located between Everson-Goshen Road and State Route 542 in Section 25 of T39N, R3E and Sections 28, 29, 30 T39N, R4E. The work will involve the pavement rehabilitation of approximately 3.25 miles of roadway. This project is listed #12 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction to be completed by 2019.

Total Estimated Project Cost: $1,875,000
Expenditures to Date: $0

Funding Sources:
- Federal
- State
- Local $5,000 (STIP 2015-2020)

Environmental Permitting
SEPA, ESA

Right-of-Way Acquisition (Estimate)
N/A

County Forces (Estimate)
N/A
Slater Road Intersections
Imhof Road to Ferndale Road
CRP # 910003

Construction Funding Year(s): 2015/2016

Project Narrative:
This Slater Road project is located between Imhoff Road and Ferndale Road in Sections 31 and 32 of T39N, R2E. The work involves the additions of turn lanes on Slater Road at Imhoff and Ferndale Roads, as well as widening the half mile roadway section between the intersections to current standards. This project is listed #13 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and R/W to begin in 2014 with construction to be completed in 2016.

Total Estimated Project Cost: $2,640,000
Expenditures to Date: $250,000

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<td>State</td>
<td>$0</td>
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<td>$1,520,000</td>
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</table>

Environmental Permitting
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

Right-of-Way Acquisition (Estimate) $100,000

County Forces (Estimate) N/A
East Smith Road & Hannegan Road
CRP # 914002

Construction Funding Year(s): 2015 / 2016

Project Narrative: The intersection of East Smith and Hannegan Roads is located in Sections 28, 29, 32 and 33, T39N, R3E. This project is listed #14 on the 2015-2020 Six-Year Transportation Improvement Program. This intersection currently experiences delays due to the lack of left-turn channelization on Smith Road. The first phase of this project is to analyze a range of solutions as well as their associated benefits, limitations, and costs.

Project Status: Traffic counts and warrants completed. Alternatives analysis in 2014. Design, permitting, and construction time frames would be contingent on alternative(s) chosen.

Total Estimated Project Cost: $ Unknown
Expenditures to Date: $10,000

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
</tr>
<tr>
<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$500,000 (STIP 2015)</td>
</tr>
</tbody>
</table>

Environmental Permitting: SEPA, ESA
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
Slater Road Connector
Northwest Drive to SR 539
CRP #914012

Construction Funding Year(s): TBD

Project Narrative:
This Slater Road Connector project is located between Northwest Drive and SR 539 in Sections 1 and 2 of T38N, R2E. The work involves the construction of a new roadway between Northwest and SR 539. This project is listed #15 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction would be contingent on the availability of additional grant monies coupled with traffic and development issues associated with the area.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
Federal $0
State $0
Local $50,000 (STIP 2015)

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Slater Road
I5 Interchange
CRP # Not Assigned

Construction Funding Year(s): 2018

Project Narrative:
This project is located north of Bellingham in Section 3, T38N, R2E. This is a project is listed #16 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
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</tr>
</thead>
<tbody>
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<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $5,000 (STIP 2018)</td>
</tr>
</tbody>
</table>

Environmental Permitting TBD
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) TBD
Hannegan Road
Bellingham City Limits to Hemmi Road
CRP # Not Assigned

Construction Funding Year(s): 2015

Project Narrative:
This Hannegan Road project is located between Bellingham City Limits and Hemmi Road in Sections 32, 5, 8, and 17 of T40N, R3E and T39N, R3E. The work involves a structural/overlay of the roadway with rumble strips and new pavement markings for approximately 4.4 miles of roadway. This project is listed #17 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:

Total Estimated Project Cost: $2,000,000
Expenditures to Date: $10,000

Funding Sources:
Federal $0
State
Local $2,000,000

Environmental Permitting ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate) N/A
County Forces (Estimate) N/A
North Enterprise Road
Harksell Road to Birch Bay Lynden Road
CRP # Not Assigned

Construction Funding Year(s): 2017

Project Narrative:
This North Enterprise Road project is located between Ferndale City Limits to Harksell Road in Sections 5 & 8 of T39N, R2E. The work involves the pavement rehabilitation of approximately miles of roadway. This project is listed #18 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:

| Total Estimated Project Cost: | $1,000,000 |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal | $0 |
| State | $900,000 (RAP) |
| Local | $100,000 |

Environmental Permitting | ECS, BA, SEPA, CLR/CAO, Corps of Engrs |
Right-of-Way Acquisition (Estimate) | N/A |
County Forces (Estimate) | N/A |
West Badger Road
Sunrise Road to Markworth Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This West Badger Road project is located between Sunrise Road and Markworth Road in Sections 8 and 9 of T40N, R2E. The work involves reconstruction of approximately 2 miles of roadway, including realignment, widening, safety upgrades and water quality / quantity treatment. This project is listed #19 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and R/W could begin in 2016; however, the degree of project activity would be contingent on resolution of funding needs. A grant application has been submitted.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

| Funding Sources:              |
|-------------------------------|-------|
| Federal                       | $0    |
| State                         | $0    |
| Local                         | $5,000 (STIP 2017) |

<table>
<thead>
<tr>
<th>Environmental Permitting:</th>
<th>ECS, BA, SEPA, CLR/CAO, Corps of Engrs</th>
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</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate):</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate):</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Map showing the West Badger Road project location between Sunrise Road and Markworth Road.
Portal Way
Birch Bay Lynden Road to Faris Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Portal Way project is located between Birch Bay Lynden Road and Faris Road in Sections 27, 35, and 36 of T40N, R1E. The work involves pavement rehabilitation of 2.85 miles of roadway. This project is listed #20 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction would be contingent on the resolution of additional funding needs. A Grant application has been submitted.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ TBD</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>State</td>
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<tr>
<td>Expenditures to Date</td>
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<td>$0</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Local</td>
</tr>
<tr>
<td></td>
<td>$5,000 (STIP 2018)</td>
</tr>
</tbody>
</table>

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
Horton Road Connector
Northwest Drive to Aldrich Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Horton Road Connector project is located between Northwest Drive and Aldrich Road in Section 2 of T38N, R2E. The work involves a ¼ mile of new roadway alignment, along with all the associated permitting, storm water and R/W issues. This project is listed #21 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction would be contingent on the availability of additional grant monies coupled with traffic and development issues associated with the area.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal $0</td>
</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $5,000 (STIP 2016)</td>
</tr>
</tbody>
</table>

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Marine Drive/BNSF Trail
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative:
This project is located in Section 15 of T38N, R2E. The work involves establishing an agreement with BNSF to authorize and construct a non-motorized trail crossing. This project is listed #22 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction would be dependent on negotiations with BNSF regarding a new crossing.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $250,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $250,000 (STIP 2015-2016)</td>
</tr>
</tbody>
</table>

Environmental Permitting | ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate) | TBD
County Forces (Estimate) | N/A
Turkington Road/Jones Creek
CRP # Not Assigned Yet

Construction Funding Year(s):
TBD

Project Narrative:
This project is located in Sections 7, T37N, R5E. This work involves completing design of road and bridge modifications in this area in coordination with the debris flow berm project being developed by the River and Flood Division. The project is listed #23 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Alternate analysis work is underway by the River & Flood Division.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
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<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $500,000 (2015-2016 STIP - PE)</td>
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</table>

Environmental Permitting
BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR

Right-of-Way Acquisition (Estimate)
$50,000

County Forces (Estimate)
N/A
Lincoln Road II
Harborview Road to SR 548 (Blaine Road)
Reconstruction and New Alignment
CRP # 908011

Construction Funding Year(s): TBD

Project Narrative:
This Lincoln Road project, from Harborview Road to SR 548 (Blaine Rd), is located in Sections 18 and 19 of T40N, R1E. The work involves improvements to a 1 mile section that includes road reconstruction, new roadway alignment, safety upgrades, and storm water quality and quantity treatment. This project is listed #24 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, RW and construction time frames would be contingent on availability of addition grant monies to fund the project, as well as resolution of some key acquisition, WSDOT access and wetland mitigation issues.

| Total Estimated Project Cost: | $ TBD |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $5,000 (STIP 2019) |

| Environmental Permitting |
| ECS, BA, SEPA, CLR/CAO, Corps of Engrs |

| Right-of-Way Acquisition (Estimate) |
| TBD |

| County Forces (Estimate) |
| N/A |
**Marine Drive**
**McAlpine Road to Alderwood Avenue**
**Reconstruction and Bike/Ped Facilities**
**CRP # Not Assigned**

**Construction Funding Year(s):** TBD

**Project Narrative:**
This Marine Drive project is located between McAlpine Road and Alderwood Avenue in Section 15 of T38N, R2E. The work involves reconstruction of approximately ½ mile of roadway with emphasis on bike/pedestrian enhancements. This project is listed #25 on the 2015-2020 Six-Year Transportation Improvement Program.

**Project Status:**
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Funding Sources:**
- Federal: $0
- State: $0
- Local: $5,000 (STIP 2018)

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>ECS, BA, SEPA, CLR/CAO, Corps of Engrs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

[Map of the area with project location marked]
Marine Drive II
Alderwood Avenue to Bridge No. 172
Reconstruction and Bike/Ped Facilities
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This Marine Drive project is located between Alderwood Avenue and Bridge No. 172 in Sections 15 of T38N, R2E. The work involves reconstruction of approximately ½ mile of roadway with emphasis on bike/pedestrian enhancements. This project is listed #26 on the 2015-2020 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, R/W and construction time frames would be contingent on availability of addition grant monies to fund the project.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $0 |
| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $5,000 (STIP 2019) |

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Innis Creek Road  
CRP # Not Assigned

Construction Funding Year(s):  
TBD

Project Narrative:  
This project is located northeast of Wickersham in Section 29, T37N, R5E. The work involves raising a quarter mile section of Innis Creek Road to mitigate flooding issues. This project is listed #27 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:  
Preliminary design and permitting to begin in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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<tr>
<td>Funding Sources:</td>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$50,000 (STIP 2015)</td>
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</table>

Environmental Permitting:  
TBD

Right-of-Way Acquisition (Estimate):  
TBD

County Forces (Estimate):  
TBD
Larrabee Road
Flood Prevention and Stream Restoration
CRP # 914003

Construction Funding Year(s):  TBD

Project Narrative:
This project is located near the Bellingham city limits in Section 11, T38N, R2E. This is a project to provide fish passage, restore habitat, and reduce chronic flooding along a tributary to Bear Creek. This project is listed #28 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Project site is monitored routinely. Project scoping and design scheduled to begin in 2014 pending results of the ongoing monitoring program.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $0 |

Funding Sources:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Federal</td>
<td>$</td>
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<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$5,000 (STIP 2019)</td>
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</table>

| Environmental Permitting | TBD |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate) | TBD |
County Roadway Safety Program
CRP # Not Assigned

Construction Funding Year(s): 2015

Project Narrative:
This project was the result of a Federal Safety Initiative to reduce fatalities and serious injury collisions on county roadways throughout the state. Whatcom County's grant addresses safety concerns through signage, rumble strips, and high friction surface treatments. This project is #29 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Design and construction in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ 750,000</th>
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<tbody>
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<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $150,000</td>
</tr>
</tbody>
</table>

| Environmental Permitting: N/A          |
| Right-of-Way Acquisition (Estimate): N/A |
| County Forces (Estimate): N/A          |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Potter Road
South Fork Bridge No. 148 Replacement
CRP #998027

Construction Funding Year(s): 2015 / 2016

Project Narrative:
This bridge replacement project is located in Sections 17 & 18, T38N, R5E. The existing single-lane bridge (14.5' wide & 243' in length) is Structurally Deficient and Functionally Obsolete. The replacement structure is a 360' two-span, pre-stressed and post-tensioned concrete girder bridge. Access will be maintained throughout construction as this is the only public access to the residential, agricultural and tribal community west of the river. The project is listed #30 on the 2015-2020 Six-Year Transportation Improvement Program, and has a project-based budget.

Project Status:
Construction began in May 2014, and is approximately 50% complete. It is expected that construction will be completed in late 2015 or early 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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<tbody>
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<table>
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</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
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<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>Complete</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Slater Road / Nooksack River Bridge No. 512 Painting
CRP # 913005

Construction Funding Year(s): 2015

Project Narrative:
This project is located on Slater Road at the Nooksack River in Section 6, T38N, R2E. This is a painting project to sandblast and repaint the 1957 steel truss bridge. The project is listed #31 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
The project was awarded BRAC funding in 2013. Construction scheduled to begin in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,810,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Federal $1,700,000 (BR)</td>
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<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $0</td>
</tr>
</tbody>
</table>

Environmental Permitting: HPA, NEPA, County Shorelines
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
Marine Drive / Little Squalicum Creek - Bridge No. 1 Rehabilitation
CRP #910017

Construction Funding Year(s): TBD

Project Narrative:
This project is located near the Bellingham city limits in Section 8, T38N. R2E. This is a rehabilitation project to replace the bridge deck, strengthen the girders and cross beams, and remove the existing load restrictions on the bridge. The project is listed #32 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
The project was submitted for BRAC funding in May 2012. Construction pending acquisition of BRAC funds.

Total Estimated Project Cost: $3,000,000
Expenditures to Date: $0

Funding Sources:
Federal: $0
State: $0
Local: $20,000 (STIP 2015)

Environmental Permitting: HPA, NEPA
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
Hannegan Road / Nooksack River - Bridge No. 252 Scour Mitigation
CRP #911002

Construction Funding Year(s): 2015

Project Narrative:
This project is located just south of the Lynden city limits in Section 20, T40N, R3E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #33 on the 2015-2020 Six Year Transportation Program.

Project Status:
BRAC funding acquired. Design and permitting underway, construction scheduled for 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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</thead>
<tbody>
<tr>
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<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting
HPA, SEPA, SEC 404, NEPA, County Shorelines

Right-of-Way Acquisition (Estimate)
$29,000 (Temporary construction access easement)

County Forces (Estimate)
None
South Pass Road / Saar Creek - Bridge No. 212 Replacement
CRP #911004

Construction Funding Year(s): 2016

Project Narrative:
This project is located southeast of Sumas in Section 17, T40N, R5E. This is a project to replace the existing 31 foot structurally deficient bridge with a 50 foot bridge. This project is listed as #34 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Design and permitting to be completed in 2015 with construction in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $775,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $ 25,000</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>Local $775,000 (STIP 2015 &amp; 2016)</td>
</tr>
</tbody>
</table>

Environmental Permitting
HPA, SEPA, SEC 404, County Shorelines

Right-of-Way Acquisition (Estimate) None Required

County Forces (Estimate) N/A
Portal Way / Dakota Creek - Bridge No. 500 Seismic Retrofit
CRP #910001

Construction Funding Year(s): 2015

Project Narrative:
This project is located south of Blaine in Section 8, T40N, R1E. This is a seismic retrofit project to mitigate the risk of failure in the event of a seismic event. This project is listed #35 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Design is complete. BRAC funding acquired. Permitting is ongoing. Construction scheduled for 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $3,000,000</th>
<th>Funding Sources:</th>
</tr>
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<tbody>
<tr>
<td>Expenditures to Date: $300,000</td>
<td>Federal $2,700,000 (BR)</td>
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<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $0</td>
</tr>
</tbody>
</table>

Environmental Permitting
HPA, SEPA, SEC 404, NEPA, County Shorelines

Right-of-Way Acquisition (Estimate)
None Required

County Forces (Estimate)
None
Jackson Road / Terrell Creek - Bridge No. 81 Replacement
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located near Birch Bay in Section 31, T40N, R1W. This is a project to replace the existing 62-foot functionally obsolete bridge. This project is listed #36 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2019.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $ 0

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$5,000 (STIP 2019)</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): TBD

[Map of Birch Bay area with the location of the bridge indicated by number 36.]
Mosquito Lake Road / Porter Creek - Bridge No. 141 Replacement
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located south of Welcome in Section 11, T38N, R5E. This is a project to replace the existing 31-foot bridge in order to mitigate ongoing scour and debris issues. This project also affords an opportunity to address geometric issues that arose from the emergency realignment of Mosquito Lake Road in 2004. This project is listed #37 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2020.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal: $0</td>
</tr>
<tr>
<td></td>
<td>State: $0</td>
</tr>
<tr>
<td></td>
<td>Local: $5,000 (STIP 2020)</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
N. Lake Samish Road Bridge No. 107 Rehabilitation
CRP # 913006

Construction Funding Year(s):
TBD

Project Narrative:
This project is located on Lake Samish in Section 27, T37N, R3E. This is a project to rehabilitate the deteriorating timber deck on the existing 250-foot bridge. This project is listed #38 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Design work to begin in 2015.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
- Federal: $0
- State: $0
- Local: $50,000 (STIP 2015)

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): TBD
Hannegan Road Bridge No. 236 Replacement
CRP # 913007

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Hannegan Road between Central and Ten Mile Roads in Section 16, T39N, R3E. This is a project to replace the last 31-foot channel beam bridge on the Hannegan Road. This old design is not suited for the volume of truck traffic present on the Hannegan Road. This project is listed #39 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Project design is complete. Construction funding will be sought once the design is complete. Work on environmental permitting and pursuing construction funding in 2015.

Total Estimated Project Cost: TBD
Expenditures to Date: $ 100,000

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$25,000 (STIP 2015)</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
Roberts Road/Anderson Creek, Bridge No. 249
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located west of Deming in Section 19, T39N, R4E. This is a bridge replacement project. This project is listed #40 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Preliminary design and permitting to begin in 2017.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>
Massey Road/Sumas River, Bridge No. 291
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located east of Everson in Section 5, T39N, R4E. This is a bridge replacement project. This project is listed #41 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status: Preliminary design and permitting to begin in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>

![Map of the area with the bridge location marked by an arrow labeled 41.](image-url)
Mosquito Lake Road/N. Fork Nooksack River, Bridge No. 332  
CRP # Not Assigned

Construction Funding Year(s):  TBD

Project Narrative:  
This project is located east of Deming in Section 27, T39N, R5E. This is a preliminary engineering study on the existing bridge. This project is listed #42 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:  Preliminary analysis to begin in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$ 0</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Local</td>
</tr>
</tbody>
</table>

| Environmental Permitting     | TBD |
| Right-of-Way Acquisition (Estimate) | None Required |
| County Forces (Estimate)     | TBD |

![Map of Mosquito Lake Road/N. Fork Nooksack River, Bridge No. 332](image-url)
Whatcom County Public Works
Project Narrative

W. Badger Road/Bertrand Creek Bridge No. 50
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located west of Lynden in Section 12 & 14, T40N, R2E. This is a bridge replacement project. This project is listed #43 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status: Preliminary design and permitting to begin in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$20,000 (STIP 2016)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>

[Map of the area showing the location of the bridge project]
Goshen Road/Anderson Creek Bridge No. 248
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located south of Everson/Goshen in Section 19, T39N, R4E. This is a bridge rehabilitation and sedimentation control project. This project is listed #44 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status: Preliminary design and permitting to begin in 2016.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
- Federal: $0
- State: $0
- Local: $20,000 (STIP 2016)

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): TBD
Slater Road / Nooksack River Bridge No. 512 Overheight Detection
CRP #914013

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Slater Road at the Nooksack River in Section 6, T38N, R2E. This is an overheight detection/warning system project. The project is listed #45 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Preliminary design to begin in 2015.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $0

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
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<tbody>
<tr>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$30,000  (STIP 2015)</td>
</tr>
</tbody>
</table>

EnvironmentalPermitting | TBD
Right-of-Way Acquisition (Estimate) | None Required
County Forces (Estimate) | N/A
Refurbish / Upgrade of the Whatcom Chief
CRP #910012

Construction Funding Year(s): TBD

Project Narrative:
This project involves the upgrade and preservation of the current ferry to Lummi Island, M/V Whatcom Chief. The project definition will address safety, accessibility and reliability concerns associated with the approximately 50 year old ferry. This project is listed #46 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$2,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>None Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

M/V Whatcom Chief
**Ferry Dock Improvements**  
**CRP #914004**

**Construction Funding Year(s):**  
2015 - 2020

**Project Narrative:**  
This project includes improvements to the ferry docks. This project is listed #47 on the 2015-2020 Six Year Transportation Improvement Program.

**Project Status:**  
Design, permitting, and construction activities are ongoing

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $2,000,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: N/A</td>
<td>Federal $</td>
</tr>
<tr>
<td></td>
<td>State $</td>
</tr>
<tr>
<td></td>
<td>Local $2,000,000 (STIP 2015-2020)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>HPA, SEPA, CORPS 404, COUNTY SHORELINES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Replacement of the Whatcom Chief
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project involves replacement of the current ferry to Lummi Island, M/V Whatcom Chief. This project is listed #48 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
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</thead>
<tbody>
<tr>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
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<tbody>
<tr>
<td>Federal $0</td>
</tr>
<tr>
<td>State $0</td>
</tr>
<tr>
<td>Local $10,000 (STIP 2017)</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>None Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>None Required</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
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</tr>
</tbody>
</table>

M/V Whatcom Chief
Various Bridges Rehabilitation / Replacement
CRP #Not Assigned

Construction Funding Year(s): 2015 - 2020

Project Narrative:
This item provides funding to address unanticipated bridge rehabilitation and/or replacement. It is listed #49 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Design and construction to occur as necessary.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,800,000</th>
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<tbody>
<tr>
<td>Expenditures to Date: N/A</td>
<td>Federal $</td>
</tr>
<tr>
<td></td>
<td>State $</td>
</tr>
<tr>
<td></td>
<td>Local $1,800,000 (STIP 2015-2020)</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

Due to the nature of this item, no map exists. Council review and prioritization will be sought at the appropriate times.
**Subdivision Overlays**
**CRP # Not Assigned**

**Construction Funding Year(s):** TBD

**Project Narrative:**
This item addresses the placement of HMA (Hot Mix Asphalt) on County Roads in dense residential areas. Locations to be determined. This project is #50 on the 2015-2020 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur as necessary.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$500,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$500,000 (2017 STIP)</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>N/A</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
### Structural Overlays

**CRP # Not Assigned**

**Construction Funding Year(s):** 2017

**Project Narrative:**
This item addresses the placement of HMA (Hot Mix Asphalt) on County Roads classified as major and minor collectors. Locations to be determined. This project is #51 on the 2015-2020 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction for the various roadways will be initiated in 2016 and extend through 2019.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,200,000</th>
<th><strong>Funding Sources:</strong></th>
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<tbody>
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<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $1,200,000 (STIP 2017-2019)</td>
</tr>
</tbody>
</table>

**Environmental Permitting:** N/A

**Right-of-Way Acquisition (Estimate):** N/A

**County Forces (Estimate):** N/A

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Right of Way Acquisition  
CRP # Not Assigned

| Construction Funding Year(s): | 2015-2020 |

**Project Narrative:**
This item addresses the unanticipated need for Right-of-Way that may arise during a given year that requires immediate action. This project is listed #52 on the 2015-2020 Six Year Transportation Improvement Program.

**Project Status:**
N/A

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $180,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
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</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local $180,000 (STIP 2015 - 2020)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
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</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Unanticipated Site Improvements  
CRP # Not Assigned

Construction Funding Year(s): 2015 - 2020

Project Narrative:
This Annual Construction Program item addresses the unanticipated project(s) that may arise during a given year that require immediate action due to safety concerns, environmental factors, traffic volumes, accident history, funding or grant availability and other issues not related to an existing program project. This project is listed #53 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$1,800,000</th>
</tr>
</thead>
<tbody>
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<td>Expenditures to Date:</td>
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<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$1,800,000 (STIP 2015 thru 2020)</td>
</tr>
</tbody>
</table>

| Environmental Permitting      | TBD        |
| Right-of-Way Acquisition (Estimate) | TBD       |
| County Forces (Estimate)      | N/A        |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Stormwater Quality Improvements
CRP # Not Assigned

Construction Funding Year(s): 2015

Project Narrative:
This project varies in location. Identification and prioritization to be addressed and reviewed through County Council. This project is listed #54 on the 2015-2020 Six Year Transportation Improvement Program.

Project Status:
Design and construction will be completed in 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $550,000</th>
<th>Funding Sources:</th>
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<td>State      $0</td>
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<tr>
<td></td>
<td>Local      $550,000 (STIP 2015-2020)</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
**Non-motorized Transportation Improvements**  
**CRP # Not Assigned**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2015 - 2020</th>
</tr>
</thead>
</table>

**Project Narrative:**  
This program item addresses the need to identify and prioritize non-motorized projects for future consideration. Projects would include pedestrian and bike facilities (e.g., sidewalks, trails, shoulder widening) in various locations around the county. This project is listed #55 on the 2015-2020 Six Year Transportation Improvement Program.

**Project Status:**  
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

<table>
<thead>
<tr>
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<tr>
<td></td>
<td>State: $0</td>
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<tr>
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<td>Local: $600,000 (STIP 2015 - 2020)</td>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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<td>Right-of-Way Acquisition (Estimate)</td>
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</tr>
<tr>
<td>County Forces (Estimate)</td>
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</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
# Fish Passage Project
**CRP #912014**

## Construction Funding Year(s):
2016 - 2018

## Project Narrative:
This project is for the design and construction of fish passage projects. This project is listed #56 on the 2015-2020 Six Year Transportation Improvement Program.

## Project Status:
Design will begin in 2015 with construction of the first project scheduled for 2016.

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<th>Total Estimated Project Cost:</th>
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<td>State</td>
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Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
# Railroad Crossing Improvements

**CRP # Not Assigned**

## Construction Funding Year(s):

2015 - 2020

## Project Narrative:

Locations to be determined. Identification and prioritization to be addressed. This project is listed #57 on the 2015-2020 Six Year Transportation Improvement Program.

## Project Status:

Locations and prioritization of projects is on-going. Negotiations with BNSF will be a factor on timing and cost.

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## Funding Sources:

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<td>County Forces (Estimate)</td>
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Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
## Neighborhood Traffic Calming
**CRP # Not Assigned**

**Construction Funding Year(s):** 2015 - 2020

**Project Narrative:**
Locations to be determined. Identification and prioritization to be addressed. This project is listed #58 on the 2015-2020 Six Year Transportation Improvement Program.

**Project Status:**
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

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<td>Federal</td>
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<td>State</td>
</tr>
<tr>
<td>Local</td>
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**Environmental Permitting:** TBD

**Right-of-Way Acquisition (Estimate):** TBD

**County Forces (Estimate):** TBD

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
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<thead>
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<th>Year</th>
<th>Non-Capital</th>
<th>Capital</th>
<th>Capital Program</th>
<th>Ending Fund Balance</th>
<th>Designated Fund Balance</th>
<th>Available Fund Balance</th>
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<td>General</td>
<td>Revenue</td>
<td>Expense</td>
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<td>Const. Revenue</td>
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<td>General Fuel Tax</td>
<td>Private Timber Harvest</td>
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A  Ferry Fund created 1/1/2006 - ferry toll and ferry deficit revenues no longer included in the Road Fund
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$2 million in fund 538 for Lummi lease commitment.
## FUNDS AVAILABLE FOR CAPITAL PROJECTS

**Cash Flow Projections ($ in millions)**

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### 2014 Whatcom County Priority Rating Program

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<th>From</th>
<th>To</th>
<th>Length</th>
<th>FFC</th>
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<td>Portal Way</td>
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<td>27</td>
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<td>Cable Street</td>
<td>Strawberry Point Road</td>
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<tr>
<td>34</td>
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<td>Wynn Road</td>
<td>Old Marine Drive</td>
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<td>Airport Drive</td>
<td>Bakerview Road (W)</td>
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<td>Austin Street</td>
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Total Length = 357.85
Whatcom County
2013 Bridge Report
Submitted: September 2014

This bridge report is prepared by Whatcom County Public Works Bridge and Hydraulic Division under the direction of the County Engineer each year to fulfill requirements of the Washington Administrative Code (WAC) 136-20-060. This WAC requires the County Engineer's report of bridge inspections as follows:

"Each county engineer shall furnish the county legislative authority with a written resume of the findings of the bridge inspection effort. This resume shall be made available to said authority and shall be consulted during the preparation of the proposed six-year transportation program revision. The resume shall include the county engineer's recommendations as to replacement, repair or load restriction for each deficient bridge. The resolution of adoption of the six year transportation program shall include assurances to the effect that the county engineer's report with respect to deficient bridges was available to said authority during the preparation of the program."

Prepared by:  
Steve Dillon  
Bridge Inspection Team Leader

Reviewed by:  
James E. Lee, P.E.  
Engineering Manager – Bridge & Hydraulics

Approved by:  
Joseph P. Rutan, P.E.  
County Engineer/Assistant Director

Cover Photo:  
Mosquito Lake Road Middle Fork Nooksack River Bridge No. 140. This bridge was rehabilitated in 2010 with new bridge bearings, new grated bridge deck, painting of steel truss structure and installation of scour protection measures.
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Acronyms

The following is a list of common acronyms widely used in the bridge inspection field:

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
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<tbody>
<tr>
<td>ADT</td>
<td>Average Daily Traffic</td>
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<tr>
<td>BRAC</td>
<td>Bridge Replacement Advisory Committee</td>
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<td>FHWA</td>
<td>Federal Highway Administration</td>
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<tr>
<td>F/O</td>
<td>Functionally Obsolete</td>
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<td>HBRRP</td>
<td>Highway Bridge Replacement and Rehabilitation Program</td>
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<tr>
<td>NBIS</td>
<td>National Bridge Inspection Standards</td>
</tr>
<tr>
<td>SD</td>
<td>Structurally Deficient</td>
</tr>
<tr>
<td>SID</td>
<td>Structure Identification Number</td>
</tr>
<tr>
<td>SR</td>
<td>Sufficiency Rating</td>
</tr>
<tr>
<td>UBIT</td>
<td>Under Bridge Inspection Truck</td>
</tr>
<tr>
<td>WAC</td>
<td>Washington Administrative Code</td>
</tr>
<tr>
<td>WSDOT</td>
<td>Washington State Department of Transportation</td>
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Executive Summary

This report has been completed in compliance with WAC 136-20-060, which requires that each County Engineer furnish a written resume of the county’s bridge inspection efforts to the county legislative authority. It is also the intention of this report that information presented here be incorporated into a comprehensive program strategy to preserve the county’s roadways.

Highlights and Changes in 2013

- Whatcom County bridge count has increased in 2013 by 2 total bridges for a total of 161 bridges. The two bridges added are short spans, not National Bridge Inventory (NBI) reportable.

- A total of 80 Whatcom County bridge condition inspections were completed in 2013.

- Whatcom County provided bridge inspection services for 55 local agency owned bridges in 2013.

- A total of 23 bridge repair work orders were completed by Whatcom County crews and others.

- Federal funding was obtained to complete a seismic retrofit of the Portal Way Dakota Creek Bridge No. 500. This bridge is concrete tee beam bridge with a 335 foot span constructed in 1928. Construction scheduled for 2015.

- Federal funding was obtained to paint Slater Road Nooksack River Bridge No. 512. This bridge is a steel truss bridge with a 246 foot span constructed in 1957. The painting project is scheduled to be completed in 2015.

- The Mosquito Lake Road Middle Fork Nooksack River Bridge No. 332 Scour Mitigation Project was constructed. Construction of this project included installing angular rock around pier number 3 and removing this bridge’s scour critical designation. This project was funded 100% with BRAC funds.

Oversize/Overweight Load Permits

In recent years Whatcom County has seen an increase in oversize/overweight permit applications. There were over 30 oversize/overweight permits issued for loads crossing county owned bridges in 2013. Bridge program staff review these applications to ensure that these oversize/overweight loads can cross these bridges without causing any harm to the structure.

![Slater Road Bridge 512 with posted height restriction](image)

Summary of Bridge Inventory

- As of the end of 2013, the unincorporated Whatcom County road system contains 161 bridges and culverts which provide connectivity between our 974 miles of roads. Of these 161 bridges, ten are classified as structurally deficient (SD); five are scheduled for replacement or rehabilitation within the next six years, and 15 have been posted with load restrictions.

- A list of all structurally deficient bridges recommended for future replacement or rehabilitation is shown in Exhibit C.
Bridge Inventory

In Whatcom County of 161 bridges, 5 are of timber construction, 101 are of concrete construction, 6 are predominately steel (all of which are fracture critical) and the remainder are a combination of these materials. See Appendix A for a complete list of Whatcom County Bridges.

Short Span Bridges
The Highway Bridge Replacement and Rehabilitation Program (HBRRP) excludes short span bridges (span length of 20 feet or less) from receiving federal funding. Out of the 161 bridges in Whatcom County inventory, 21 of these bridges are classified as short span bridges.

Outside Local Agency Bridges
The Whatcom County Bridge and Hydraulics program provides inspection services to local agencies upon request. The county works with cities under inter-local agreements (ILA), with conditions set forth in the Revised Code of Washington (RCW) Chapter 39.34. The county’s services are provided primarily to local agencies that lack expertise to inspect and maintain their bridge inventory. In addition, the Whatcom County Public Works Road Maintenance Division contracts with local agencies for the maintenance of other local agency bridges. In 2013 the county provided inspection services on 55 bridges for outside local agencies.

<table>
<thead>
<tr>
<th>Local Agency</th>
<th>Number of bridges inspected in 2013</th>
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<tr>
<td>City of Bellingham</td>
<td>41</td>
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<tr>
<td>City of Lynden</td>
<td>11</td>
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<td>City of Everson</td>
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</tr>
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<td>San Juan County</td>
<td>1</td>
</tr>
<tr>
<td>Port of Bellingham</td>
<td>1 (ferry terminal)</td>
</tr>
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</table>

Summary of outside local agency bridges inspected in 2013

Lummi Island Ferry Terminals
As a part of our bridge program, Whatcom County inspects and maintains the Gooseberry Point and Lummi Island Ferry Terminals. These consist of a steel transfer span and a timber trestle at the Gooseberry Point terminal and a steel transfer span and a reinforced concreted girder approach dock at the Lummi Island terminal.

Lummi Island approach span
Bridge Inspection, Findings and Recommendations

Bridge inspections are performed in accordance with the National Bridge Inspection Standards (NBIS) in conformance with 23 CFR 650.3. The standards mandate that all public agencies with a bridge inventory inspect and report the findings at a minimum of once every two years (routine inspection). Special inspections are required for bridges that cannot be given close or adequate inspection from the ground. For these bridges an Under-Bridge Inspection Truck (UBIT) is required. Steel bridges with fracture critical members may also require special inspections with special inspection equipment. A third category of special inspections are the Under Water Inspections which are required every five years for bridges with piers that extend below ordinary low-water levels.

During bridge inspections, the current condition of each bridge element is noted. The deficiencies are coded to NBIS standards and show the degree of deterioration in various elements - the three primary elements being:

- Deck,
- Superstructure, and
- Substructure.

As deterioration accelerates, the coding values drop and work orders for repairs are issued. In the case where the coding factors are extremely low, recommendations are made for repair, replacement or rehabilitation. Bridges with identified deficiencies may be inspected or monitored at more frequent intervals.

The results of our inspection program are forwarded to the Washington State Department of Transportation (WSDOT) for review. Once the report has been accepted by WSDOT it is available for the Federal Highway Administration (FHWA).

Whatcom County has many reinforced concrete channel beam superstructures designed in 1955 which are at the low end of today’s load carrying capacity requirements and are supported by timber caps and piles. These structures are being maintained and/or replaced on a regular basis depending on the age and the deterioration rate of the structure.

The NBIS utilizes information from the latest bridge inspection to determine the Sufficiency Rating (SR) which is a calculated score based on information from the most recent bridge inspection. The SR is a number from 0 to 100 with 100 being an entirely sufficient bridge, and 0 being an entirely insufficient or deficient bridge. Items that factor into the determination of the SR include: load bearing capacity, average daily traffic, availability and length of detour, the geometry of the bridge and the risk of scour on bridge foundations at waterway crossings.

As of December 31, 2013, Whatcom County has 100 bridges with a SR less than 80 that are eligible to compete for federal rehabilitation funding. There are 5 bridges with a SR less than 40 that are eligible to compete for federal replacement funding. Of the 5 bridges with an SR rating of 40 or less, 1 is under construction and two have applied for BRAC replacement funding for 2014.

This year routine inspections were performed on 135 bridges, including 55 outside local agency bridges.

If the underside of the bridge deck cannot be given close or adequate inspection from the ground then a special inspection using an under bridge inspection truck (UBIT) or under bridge inspection platform is required.

See Exhibit A for our master list of special inspections and details on inspection frequencies and schedules for all of our UBIT and underwater bridge inspections.
## Exhibit “A” - Master List of Special Inspection and Equipment Needs

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Bridge Name</th>
<th>Fracture Critical Last Inspection Date</th>
<th>Underwater Last Inspection Date</th>
<th>Special Equipment Last Inspection Date</th>
<th>UBIT Frequency</th>
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</thead>
<tbody>
<tr>
<td>3</td>
<td>MARIETTA</td>
<td></td>
<td>January-13</td>
<td></td>
<td>72 Months</td>
</tr>
<tr>
<td>115</td>
<td>HIGH BRIDGE</td>
<td></td>
<td>April-14</td>
<td></td>
<td>48 Months</td>
</tr>
<tr>
<td>140</td>
<td>MIDDLE FORK</td>
<td>August-12</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>148</td>
<td>SOUTH FORK</td>
<td>February-14</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>252</td>
<td>NOOKSACK RIVER</td>
<td>March-14</td>
<td>September-10</td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>332</td>
<td>NORTH FORK</td>
<td>April-13</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>421</td>
<td>ROCKY CREEK</td>
<td>April-13</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>500</td>
<td>DAKOTA CREEK</td>
<td></td>
<td>April-13</td>
<td></td>
<td>48 Months</td>
</tr>
<tr>
<td>503</td>
<td>GOOSEBERRY FERRY SLIP</td>
<td>October-12</td>
<td>March-11</td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>507</td>
<td>LUMMI ISLAND FERRY SLIP</td>
<td>October-12</td>
<td>March-11</td>
<td></td>
<td>24 Months</td>
</tr>
<tr>
<td>512</td>
<td>NOOKSACK RIVER</td>
<td>April-13</td>
<td></td>
<td></td>
<td>24 Months</td>
</tr>
</tbody>
</table>
Load, Height and Width Restricted Bridges

Each bridge is required to have a "Load Rating" calculation. The Load Rating establishes how much weight the bridge can carry for several standard configurations of vehicle axle loads.

During the 2013 inspection cycle, nc bridges were added to the load restriction list. As of December 31, 2013, there are a total of fifteen load restricted bridges in the county.

Bridges that have traffic portals of 15 feet or less are required to be posted with the allowable height. Whatcom County has two roads passing through posted height restricted bridge structures.

Of the fifteen bridges posted for load restrictions, four are scheduled for replacement. Most of Whatcom County's posted bridges have a deficient superstructure due to the original girder design and are not an immediate concern for our lower ADT roads but they are inspected every 12 months to look for any problems that would accelerate their need for replacement.

Exhibit “B” – Load, Height and Width Restricted Bridges

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Road Name</th>
<th>Features Crossed</th>
<th>Restricted Width</th>
<th>Restricted Vertical Clearance</th>
<th>Bridge Posted for Load Restriction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>MARINE DR</td>
<td>ACCESS RD CREEK OLD RR</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>44</td>
<td>BRIDGE WAY</td>
<td>CALIFORNIA CR</td>
<td>16</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>50</td>
<td>W BADGER RD</td>
<td>BERTRAN CR</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>51</td>
<td>FLYNN RD</td>
<td>FISHTRAP CR</td>
<td>16</td>
<td></td>
<td></td>
</tr>
<tr>
<td>81</td>
<td>JACKSON RD.</td>
<td>TERRELL CR.</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>82</td>
<td>ALDERSON RD</td>
<td>TERRELL CREEK</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>91</td>
<td>STEIN RD</td>
<td>DAKOTA CR. TRIB.</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>105</td>
<td>MANLEY ROAD</td>
<td>SILVER CREEK</td>
<td>11.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>132</td>
<td>HUDSON ROAD</td>
<td>JONES CREEK</td>
<td>15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>140</td>
<td>MOSQUITO LK RD</td>
<td>MIDDLE FORK</td>
<td>13.2</td>
<td>18'</td>
<td></td>
</tr>
<tr>
<td>148</td>
<td>POTTER RD.</td>
<td>SOUTH FORK</td>
<td>14.5</td>
<td>15'</td>
<td>Yes</td>
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<tr>
<td>151</td>
<td>HILLSIDE RD.</td>
<td>SIGITOWITZ CREEK</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>249</td>
<td>ROBERTS RD.</td>
<td>ANDERSON CR</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>291</td>
<td>MASSEY RD</td>
<td>SUMAS RIVER</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>308</td>
<td>ALM RD</td>
<td>SUMAS RIVER</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>332</td>
<td>MOSQUITO LK RD</td>
<td>NORTH FORK</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>503</td>
<td>LUMMI VIEW DR</td>
<td>9104</td>
<td>12</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>503A</td>
<td>LUMMI VIEW DR</td>
<td>HALE PASS</td>
<td></td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>506</td>
<td>HERON LANE</td>
<td>JOHNSON CR</td>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>507</td>
<td>LUMMI IS FERRY RTE</td>
<td>HALE PASSAGE</td>
<td>14</td>
<td>39'03&quot;</td>
<td></td>
</tr>
<tr>
<td>507A</td>
<td>LUMMI IS FERRY RTE</td>
<td>HALE PASSAGE</td>
<td>14</td>
<td></td>
<td>Yes</td>
</tr>
<tr>
<td>510</td>
<td>COAL CREEK RD</td>
<td>GALLOP CREEK</td>
<td>14</td>
<td></td>
<td></td>
</tr>
<tr>
<td>512</td>
<td>SLATER RD</td>
<td>NOOKSACK RIVER</td>
<td>15'03&quot;</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Bridge Replacement and Rehabilitation Plan for Deficient Bridges

The county's current focus is to replace or rehabilitate bridges that are classified as structurally deficient (SD) per NBIS. Four replacement/rehabilitation projects were in design phase at the end of 2013. Since 2000, 15 bridges have been replaced or re-built in Whatcom County. Lists of future replacement/ rehabilitation candidates, including short-span bridges, are shown in Exhibit 'C.'

2013 Replacement and Rehabilitation Design Projects

Potter Road-Bridge 148-Replacement
This project will replace the existing one-lane, two-way, SD and functionally obsolete fracture critical truss bridge with a reinforced concrete bridge. Construction is scheduled to begin in May 2014.

Hannegan Bridge 236 Replacement
This project will replace an existing reinforced concrete channel girder bridge on timber caps and piles. This bridge is located on a major county arterial that is subject to heavy truck traffic. Design work began in 2013 with construction scheduled once construction funding is secured.

South Pass Road Bridge 212 Replacement
This project will replace a two span channel beam structure supported by timber caps and piles. The caps and piles are showing rapid deterioration. Design work was initiated in 2013.

Slater Road Bridge 512 Paint Restoration
This project will paint the Slater Road steel truss to prolong the structural life. Construction to begin in May of 2015.

Hannegan Road Bridge 252 Scour Mitigation Project
Design work is underway to install scour counter measures at pier number 2 to remove the scour critical designation on this bridge. BRAC funds have been secured for this project with construction scheduled in 2015.

Dakota Creek Bridge #500 Seismic Retrofit
This project will retrofit the 1928 Concrete T-Beam structure to a Level 2 seismic condition. Work also will help extend the life of this structure. Project design is underway with construction scheduled for 2015. BRAC funds have been secured for this project.
### Exhibit "C" – Structurally Deficient Bridges

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Bridge Name</th>
<th>Deficiency's</th>
<th>Sufficiency Rating</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>BERTRAND CR</td>
<td>Timber Cap Section Loss</td>
<td>22.51</td>
<td>Monitoring</td>
</tr>
<tr>
<td>81</td>
<td>JACKSON RD.</td>
<td>Timber Cap and Pile Deterioration</td>
<td>28.50</td>
<td>Monitoring</td>
</tr>
<tr>
<td>248</td>
<td>ANDERSON CR</td>
<td>Timber Cap and Pile Deterioration</td>
<td>36.88</td>
<td>Monitoring</td>
</tr>
<tr>
<td>249</td>
<td>ANDERSON CR</td>
<td>Timber Cap Section Loss</td>
<td>39.86</td>
<td>Monitoring</td>
</tr>
<tr>
<td>1</td>
<td>LITTLE SQUALICUM</td>
<td>Delamination of Deck, Cap Beam Capacity</td>
<td>40.38</td>
<td>Monitoring</td>
</tr>
<tr>
<td>291</td>
<td>SUMAS RIVER</td>
<td>Concrete Channel Beam Deterioration</td>
<td>42.72</td>
<td>Monitoring</td>
</tr>
<tr>
<td>497</td>
<td>BERTRAND CR TRIB</td>
<td>Scour Exposing Concrete Footings</td>
<td>45.37</td>
<td>Monitoring</td>
</tr>
<tr>
<td>212</td>
<td>SAAR CR</td>
<td>Timber Cap and Pile Deterioration</td>
<td>47.41</td>
<td>Design 2014</td>
</tr>
<tr>
<td>500</td>
<td>DAKOTA CR</td>
<td>Rebar Section Loss, No Girder Stops</td>
<td>49.40</td>
<td>Construction Scheduled 2015</td>
</tr>
</tbody>
</table>
# Maintenance and Repair Recommendations

The majority of bridge repair and maintenance work is done by county crews, with support from various vendors. This includes cleaning, minor painting, and replacing existing components which have deteriorated. Twenty (23) maintenance work orders were completed in 2013. (See Exhibit D below).

Work planned for 2014 includes major work orders and routine maintenance on most of our bridges. The work includes helper piles and caps, abutment repairs, asphalt approaches, concrete repair and bridge cleaning and brushing.

## Exhibit “D” – Maintenance Work Orders Completed in 2013

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Waterway</th>
<th>Work Completed</th>
<th>Date Repaired</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>BARRETT CREEK</td>
<td>Cleaned exposed rebar and installed patch</td>
<td>Apr-13</td>
</tr>
<tr>
<td>14</td>
<td>TEN MILE CR</td>
<td>Patched decks</td>
<td>Nov-13</td>
</tr>
<tr>
<td>21</td>
<td>TEN MILE CR</td>
<td>Patched exposed rebar</td>
<td>Nov-13</td>
</tr>
<tr>
<td>36</td>
<td>DAKOTA CR.</td>
<td>Cleaned off and grouted areas with exposed rebar</td>
<td>Apr-13</td>
</tr>
<tr>
<td>44</td>
<td>BRIDGE WAY</td>
<td>Cleaned off spalling concrete and patched bottom and west side of girder</td>
<td>May-13</td>
</tr>
<tr>
<td>81</td>
<td>JACKSON RD</td>
<td>Cleaned and patched exposed rebar.</td>
<td>Nov-13</td>
</tr>
<tr>
<td>99</td>
<td>DRAINAGE DITCH</td>
<td>Repaired deck grout</td>
<td>Nov-13</td>
</tr>
<tr>
<td>131</td>
<td>MCCARTY CR</td>
<td>Cleaned and patched exposed rebar.</td>
<td>May-13</td>
</tr>
<tr>
<td>143</td>
<td>BLACK SLOUGH</td>
<td>Patched girders 11 and 11 &amp; Abutments</td>
<td>Apr-13</td>
</tr>
<tr>
<td>151</td>
<td>SIGITOWITZ CREEK</td>
<td>Removed rust and grouted 8 feet of girder G</td>
<td>Apr-13</td>
</tr>
<tr>
<td>163</td>
<td>DAKOTA CR TRIB</td>
<td>Patched previously repaired sections of girder B</td>
<td>May-13</td>
</tr>
<tr>
<td>164</td>
<td>DAKOTA CR</td>
<td>Cleaned and patched girder K &amp; Abutments</td>
<td>May-13</td>
</tr>
<tr>
<td>204</td>
<td>TEN MILE CR</td>
<td>Patched girders 2h and 2k</td>
<td>Nov-13</td>
</tr>
<tr>
<td>235</td>
<td>TEN MILE CR</td>
<td>Cleaned rebar and patched concrete in girder and abutment.</td>
<td>May-13</td>
</tr>
<tr>
<td>248</td>
<td>ANDERSON CR</td>
<td>Grouted deck joints</td>
<td>Nov-13</td>
</tr>
<tr>
<td>258</td>
<td>KAMM SLOUGH</td>
<td>Patched deck picking holes</td>
<td>Nov-13</td>
</tr>
<tr>
<td>303</td>
<td>SUMAS RIVER</td>
<td>Repaired road approaches</td>
<td>Dec-13</td>
</tr>
<tr>
<td>304</td>
<td>SUMAS RIVER</td>
<td>Repaired road approaches</td>
<td>Dec-13</td>
</tr>
<tr>
<td>306</td>
<td>SUMAS RIVER</td>
<td>Repaired road approaches</td>
<td>Dec-13</td>
</tr>
<tr>
<td>408</td>
<td>SMITH CR</td>
<td>Completed patching of spalled areas</td>
<td>May-13</td>
</tr>
<tr>
<td>507</td>
<td>LUMMI ISLAND FERRY SLIP</td>
<td>Installed counter weight cables</td>
<td>Aug-13</td>
</tr>
<tr>
<td>507</td>
<td>LUMMI ISLAND FERRY SLIP</td>
<td>Realigned running sheaves</td>
<td>Aug-13</td>
</tr>
</tbody>
</table>
Glossary of Bridge Terms

**Abutment** – a substructure supporting the end of a single span, or the extreme end of a multi-span super-structure and, in general, retaining or supporting the bridge approach fill.

**Approach Span** – the span or spans connecting the abutment with the main span or spans.

**Back Wall** – the top-most portion of an abutment functioning primarily as a retaining wall to contain approach roadway fill.

**Beam** – a linear structural member designed to span from one support to another.

**Bent** – a supporting unit of the beams of a span made up of one or more column or column-like members connected at their top-most ends by a cap, strut, or other horizontal member.

**Box Girder** – a support beam that is a hollow box; its cross-section is a rectangle or square.

**Bracing** – a system of tension or compression members, or a combination of these, connected to the parts to be supported or strengthened by a truss or frame. It transfers wind, dynamic, impact, and vibratory stresses to the substructure and gives rigidity throughout the complete assemblage. Can also refer to diagonal members that tie two or more columns of a bent together.

**Cap** – the horizontally-oriented, top-most piece or member of a bent sewing to distribute the beam loads upon the columns and to hold the beams in their proper relative positions.

**Cast-in-Place** – concrete poured within form work on site to create a structural element in its final position.

**Catwalks** – temporary foot bridges, used by bridge inspection personnel.
**Chord** — in a truss, the upper-most and the lower-most longitudinal members, extending the full length of the truss.

**Column** — a vertical structural member that transfers dead and live load from the bridge deck and girders to the footings or shafts.

**Column crosses brace** — transverse brace between two main longitudinal members.

**Compression** — a type of stress involving a pressing or squeezing together; tends to shorten a member; opposite of tension.

**Culvert** — a pipe or small structure used for drainage under a road, railroad or other embankment. A culvert with a span length greater than 20 feet is included in the National Bridge Inventory and Receives a rating using the NBI scale.

**Dead load** — a static load due to the weight of the structure itself.

**Deck** — the roadway portion of a bridge that provides direct support for vehicular and pedestrian traffic.

**Deck bridge** — a bridge in which the supporting members are all beneath the roadway.

**Deck truss** — a bridge whose roadway is supported from beneath by a truss.

**Diagonal** — a sloping structural member of a truss or bracing system.

**Elastomeric pads** — rectangular pads made of neoprene, found between the sub-structure and superstructure that bears the entire weight of the superstructure. Elastomeric pads can deform to allow for thermal movements of the superstructure.

**End wall** — the wall located directly under each end of a bridge that holds back approach roadway fills. The end wall is part of the abutment.

**Expansion joint** — A joint designed to provide means for expansion and contraction movements produced by temperature changes, load, or other forces.

**Fatigue** — Cause of structural deficiencies, usually due to repetitive loading over time.

**Footing** — The enlarged, lower portion of a sub-structure that distributes the structure load either to the earth or to supporting piles; the most common footing is the concrete slab; "footer" is a colloquial term for footing.

**Fracture critical member** — a member in tension or with a tension element whose failure would probably cause a portion of or the entire bridge to collapse.

**Girder** — a main support member for the structure that usually receives loads from floor beams and stringers; also, any large beam, especially if built up.

**Hanger** — a tension member serving to suspend an attached member.

**Hinge** — a point in a structure at which a member is free to rotate.

**Live load** — vehicular traffic, wind, water; and/or earthquakes.

**Lower chord** — the bottom horizontal member of a truss.

**Main beam** — a beam supporting the spans and bearing directly onto a column or wall.
Member — an individual angle, beam, plate, or built piece intended to become an integral part of an assembled frame or structure.

Oscillation — a periodic movement back and forth between two extreme limits. An example is the string of a guitar that has been plucked. Its vibration back and forth is one oscillation. A vibration is described by its size (amplitude), its oscillation rate (frequency), and its timing (phase). In a suspension bridge, oscillation results from energy collected and stored by the bridge, if a part of the bridge has to store more energy than it is capable of storing, that part will probably fail.

Pier — a structure comprised of stone, concrete, brick, steel, or wood that supports the ends of the spans of a multispans superstructure at an intermediate location between abutments. A pier is usually a solid structure as opposed to a bent, which is usually made up of columns.

Pile — a linear (vertical) member of timber, steel, concrete, or composite materials driven into the earth to carry structure loads into the soil.

Pile bent — A row of driven or placed piles with a pilecap to hold them in their correct positions; see "Bent."

Plate girder — a large, solid web plate with flange plates attached to the web plate by flange angles or fillet welds. Typically fabricated from steel.

Post or column — a member resisting compressive stresses, in a vertical or near vertical position.

Precast girder — fabricated off site of Portland Cement Concrete, reinforcing steel and post-tensioning cables. These girders are shipped to the construction site by truck and hoisted into place by cranes.

Reinforced concrete — concrete with steel reinforcing bars bonded within it to supply increased tensile strength and durability.

Scour — erosive action of removing streambed material around bridge substructure due to water flow. Scour is of particular concern during high-water events.

Short span bridge — these bridges have a single NBIS span length of 20 feet or less. They are typically supported by timber piers or shallow concrete footings.

Soffit — the underside of the bridge deck or sidewalk.

Spall — a concrete deficiency wherein a portion of the concrete surface is popped off from the main structure due to the expansive forces of corroding steel rebar underneath. This is especially common on older concrete bridges.

Span — The distance between piers, towers, or abutments.

Steel — A very hard and strong alloy of iron and carbon.

Stringer — a longitudinal beam (less than 30 feet long) supporting the bridge deck, and in large bridges, framed into or upon the floor beams.

Sufficiency rating — the sufficiency rating is a numeric value from 1.0 (a bridge in new condition) to 0 (a bridge incapable of carrying traffic). The sufficiency rating is the summation of four calculated values: Structural Adequacy and Safety, Serviceability and Functional Obsolescence, Essentiality for Public Use, and Special Reductions.
Substructure – the abutment, piers, grillage, or other structure built to support the span or spans of a bridge superstructure, and distributes all bridge loads to the ground surface. Includes abutments, piers, bents, and bearings.

Superstructure – the entire portion of a bridge structure which primarily receives and supports traffic loads and in turn transfers the reactions to the bridge substructure; usually consists of the deck and beams or, in the case of a truss bridge, the entire truss.

Tension – type of stress involving an action which pulls apart.

Tie – a member carrying tension.

Torsion – a twisting force or action.

Truss bridge – a bridge having a pair of trusses for the superstructure.

Upper chord – the top longitudinal member of a truss.

Web – the portion of a beam located between and connected to the flanges.

Welded joint – a joint in which the assembled elements and members are united through fusion of metal.

Wheel rail – a timber curb fastened directly to the deck, most commonly found on all-timber bridges.

Wing wall – walls that slant outward from the corners of the overall bridge that support roadway fill of the approach.
### Appendix “A” – 2013 Whatcom County Bridge Inventory: 161 Bridges (21 Short Spans)

<table>
<thead>
<tr>
<th>Bridge #</th>
<th>Bridge Name</th>
<th>Structure Length</th>
<th>Structure Width</th>
<th>Traffic (ADT)</th>
<th>Detour Miles</th>
<th>Year Built</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LITTLE SQUALICUM</td>
<td>270</td>
<td>28</td>
<td>6987</td>
<td>2</td>
<td>1955</td>
</tr>
<tr>
<td>2</td>
<td>MARIETTA SLOUGH</td>
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<td>3317</td>
<td>7</td>
<td>1978</td>
</tr>
<tr>
<td>3</td>
<td>MARIETTA</td>
<td>420</td>
<td>28</td>
<td>3317</td>
<td>7</td>
<td>1969</td>
</tr>
<tr>
<td>5</td>
<td>PORTAGE SLOUGH</td>
<td>90</td>
<td>40.5</td>
<td>3460</td>
<td>6</td>
<td>1997</td>
</tr>
<tr>
<td>7</td>
<td>SLOUGH BRIDGE</td>
<td>90</td>
<td>32.1</td>
<td>1099</td>
<td>6</td>
<td>1979</td>
</tr>
<tr>
<td>8</td>
<td>RED RIVER</td>
<td>80</td>
<td>28</td>
<td>80</td>
<td>3</td>
<td>1997</td>
</tr>
<tr>
<td>9</td>
<td>SILVER CREEK</td>
<td>31</td>
<td>24</td>
<td>70</td>
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</tr>
<tr>
<td>11</td>
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<td>126</td>
<td>24</td>
<td>5852</td>
<td>5</td>
<td>1951</td>
</tr>
<tr>
<td>12</td>
<td>SCHNEIDER DITCH</td>
<td>19</td>
<td>19.8</td>
<td>220</td>
<td>99</td>
<td>2003</td>
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<tr>
<td>13</td>
<td>BARRETT CREEK</td>
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<td>24</td>
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RESOLUTION NO. _______

WHATCOM COUNTY SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM FOR THE YEARS 2015 THROUGH 2020

WHEREAS, pursuant to RCW 36.81.121, Whatcom County is required to prepare and approve a Six-Year Transportation Improvement Program each year; and

WHEREAS, pursuant to RCW 36.54.015, Whatcom County is required to prepare a Fourteen-Year Ferry Capital Program each year; and

WHEREAS, following approval of the Six-Year Transportation Improvement Program, the law required an annual review of the work accomplished under the program and a determination of current transportation needs; and

WHEREAS, based upon the findings of the annual review, and after a public hearing, a revised Six-Year Transportation Improvement Program shall be approved; and

WHEREAS, pursuant to RCW 36.81.121, the Six-Year Transportation Improvement Program and Fourteen-Year Ferry Capital Program must be consistent with the County comprehensive plan pursuant to RCW 36.70A; and

WHEREAS, the Six-Year Transportation Improvement Program attached hereto as Exhibit “A” has been reviewed and determined to be consistent with the County’s comprehensive plan; and

WHEREAS, the Fourteen-Year Ferry Capital Program attached hereto as Exhibit “B” has been reviewed and determined to be consistent with the County’s comprehensive plan;

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council as follows:

Page 1
1. That the Whatcom County Six-Year Transportation Improvement Program for the years 2015 through 2020, which is attached hereto as Exhibit “A”, including the capital elements of the first six-years of the Fourteen-Year Ferry Capital Program, which is attached hereto as Exhibit “B”, is hereby approved.

2. That the County Engineer is directed to file a copy of the same with the County Road Administration Board and the State Secretary of Transportation.

APPROVED this ____ day of __________, 2014.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Chair of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Dan Gibson, Chief Civil Deputy Prosecutor
### Exhibit "A"

**Six Year Transportation Improvement Program**

**From 2015 to 2020**

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<th>Project Identification</th>
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<th>C. Project Title</th>
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**Totals**

- **Federal Funding**
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Report Date: September 2, 2014

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### Project Identification

- **A. PIN/State Aid No.**
- **B. Bridge No.**
- **C. Project Title**
- **D. Street/Road Name or Number**
- **E. Beginning MP or Road - Ending MP or Road**
- **F. Describe Work to be Done**

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- **R/W Required Date (MM/YY):**
- **Envir Type:**
- **R/W Type:**
- **344**

**Report Date:** September 2, 2014

**Page 2**

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Report Date: September 2, 2014

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- 12790

### B. Bridge No.
- Marine Drive, McAlpine Road to Alderwood Avenue

### C. Project Title
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### D. Street/Road Name or Number
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### E. Beginning MP or Road - Ending MP or Road
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### F. Describe Work to be Done
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### Six Year Transportation Improvement Program

**From 2015 to 2020**

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**From 2015 to 2020**

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**Report Date:** September 2, 2014  
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**v. 5.7 - Supersedes previous editions**
WHATCOM COUNTY
2015-2028 FOURTEEN-YEAR
FERRY CAPITAL PROGRAM
Overview

This program provides a blueprint for the effective, efficient, and continuing operation of the Whatcom County Ferry System within existing financial constraints. Capital improvements are scheduled based on many years of experience operating and maintaining the system, while complying with applicable regulations.

Inevitably, priorities and available funds for the ferry system will change over the fourteen years projected in this program. Therefore, the intention of the program is to be a guide indicating long-range improvements and anticipated revenues and expenditures. Strict adherence is not required.

Enacted in 1975, Revised Code of Washington (RCW) 36.54.015 states “The legislative authority of every county operating ferries shall prepare, with the advice and assistance of the county engineer, a fourteen year long range capital improvement plan embracing all major elements of the ferry system. Such plan shall include a listing of each major element of the system showing its estimated current value, its estimated replacement cost, and its amortization period.”

Table 1: Ferry System Current and Replacement Values – 2011 meets applicable requirements, showing the current value, replacement cost, and amortization periods for the vessels and facilities. The current value of the M/V Whatcom Chief is the book value, calculated from the depreciated original construction cost and any depreciated improvements/major repairs. The facilities’ current value is book value; original cost less depreciation plus depreciated improvements. This schedule will be updated in September 2014 during dry dock.

RCW 36.81.121 (1) states “…the legislative authority of each county, after one or more public hearings thereon, shall prepare and adopt a comprehensive transportation program for the ensuing six calendar years….and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county road administration board and the secretary of transportation not more than thirty days after its adoption by the legislative authority…” Subsection (2) requires expanded information on how a county will spend all its money on the various facets of the transportation program. This RCW Section was enacted in 1961. The capital expenditure portion of Subsection (1) is satisfied by:

Table 2: Projected Revenues defines the known and/or anticipated sources of operating and capital project funding for the 14-Year Plan.
Table 3: Projected Expenditures includes all other expenditures on the system that meet Subsection (2) requirements. Operational expenditures are delineated between vessel and non-vessel costs. U.S. Coast Guard regulations currently require the ferries to be dry-docked every two years, however to extend the life, improve reliability and protect our capital investment Whatcom County schedules dry-docking every year for its vessel. The landings are inspected regularly as required by the National Bridge Inspection Standards administered through the Washington State Department of Transportation. The inspection report helps identify and schedule major maintenance and replacement of these facilities.

This RCW section also provides the reporting requirement and timing of program submission, as well as establishing the annual update requirement.

Additionally, the Federal Highway Administration requires all agencies within a Metropolitan Planning Organization to develop and annually update the long range Transportation Improvement Plans and their Biennial Element. Whatcom County updates this 14-Year plan each year and incorporates the results into the Six-Year Transportation Improvement Program.

Major Project Analysis

Gooseberry Point dock improvements include electrical system upgrades and terminal painting which are in the preliminary planning stages for 2018. In 2019, preliminary plans will be developed for the replacement of the approach span and transfer span decks.

Lummi Island dock improvements include dolphin replacement and breakwater repair which will be designed and permitted in 2015 with construction scheduled for 2016. Electrical system upgrades and terminal painting are in the preliminary planning stages for 2018. In 2019, preliminary plans will be developed for the replacement of the approach span and transfer span decks.

Major Maintenance/Reconstruction

Pile, dolphin & fender work:
Major pile dolphin and fender work replacement is scheduled as funding and operational periods allow.

Vessel dry-docking:
US Coast Guard regulations require periodic inspections of all ferry vessels. In addition to yearly certifications, each vessel is required to be dry-docked every two years, with an underwater hull survey required as part of the annual certification between dry dockings. Whatcom County schedules dry-docking every year. The engine overhaul, vessel painting, hull repairs, and other major and minor repairs occur during dry-docking. Propulsion engine overhauls occur every third year. Generator engines are overhauled on a six-year cycle. Engines
are replaced every ten to twelve years. Every three to five years, a vessel survey is conducted to assess the vessel’s overall condition, establish the fair market value, estimate replacement cost, and provide a detailed hull strength assessment. This survey is used in part to determine the requirements for hull plating and framing replacement, and is also a requirement of the current insurance carrier.

**Minor Maintenance**

General minor maintenance is continual on the ferry, landings, aprons, and waiting facilities. The costs and extent of the work is unpredictable and frequently, problems must be repaired immediately upon detection. Routine maintenance such as building painting and roof cleaning is more predictable and scheduled in advance.

**History of the Ferry System**

The ferry system is the only public transportation link for the majority of Lummi Island residents and vehicles to the mainland at Gooseberry Point.

Following is a brief chronology outlining the history of the Whatcom County Ferry System.

**YEAR EVENT**

1926 Lummi Shore Road from Bellingham was completed and a ferry, the Central, owned by Whatcom County and large enough to hold six small Model-T Fords started making scheduled runs between Lummi Island and Gooseberry Point.

1929 The slightly larger Chief Kwina replaces the Central.

1950 Gooseberry Point terminal built.

1962 The M/V Whatcom Chief begins service.

1978 Lummi Island terminal is relocated.

1982 New lift mechanism installed on transfer span at Lummi Island. Gooseberry Point pier refurbished.

1987 Gooseberry Point Transfer span, wing walls and dolphins replaced.

1997 Major refurbishment of Gooseberry point landing accomplished.

2002 20-Year Plan Phase 1 Process and report completed.


2006 Lummi Island Dock preservation project (Bearing Seats Rebuild). Major corrosion repair to vessel hull. Completed design package for a 35-car replacement vessel. Completed design package for urgent electrical/structural terminal repairs. First Rate Increase in 5 years.

2008 Rate Increase

2009 Rate adjustment
2009 Emergency wing wall replacement on Lummi Island
2010 Emergency wing wall replacement on Lummi Island
2011 Rate increase and long term lease with the Lummi Nation
2012 Planning and design for the remote control installation at Lummi Island and the wing wall replacement at Gooseberry Point.
2013 Gooseberry Point terminal wooden wingwalls replaced with modern steel-pile supported wingwalls.
2013 Lummi Island terminal transfer span and apron remote control system installed.
2014 Gooseberry Point terminal wooden dolphins replaced with modern steel-pile supported dolphins.
# Ferry System Current and Replacement Values - 2011

## Vessels

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<tr>
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## Facilities

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<th>REPLACE YEAR</th>
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**NOTES:**

<sup>(1)</sup> Depreciated Columbia Sentinel Engineers (2011) Value plus Depreciated Improvements

<sup>(2)</sup> Appreciated Columbia Sentinel Engineers (2011) Replacement Value

<sup>(3)</sup> Replace with Steel Piling

<sup>(4)</sup> Estimated using a 40-year life and straight-line depreciation (including depreciated improvements)

<sup>(5)</sup> Replacement value based on cost estimates by Art Anderson Associates (2009)
### Lummi Island Ferry 14-Year Capital Program

#### All $ in 000's Revenues 2015-2021

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### Lummi Island Ferry 14-Year Capital Program

#### All $ in 000's Revenues 2022-2028

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<td>(121)</td>
<td>(123)</td>
<td>(124)</td>
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**Note 1:** After Subtracting the MVFT Deficit Subsidy. Budgeted for 57% fare recovery based on historical results.

**Note 2:** As Shown On Table 2, including capital expenditures.

**Note 3:** Equal to 80% of Fares

**Note 4:** Equal to 20% of Fares
### Lummi Island Ferry 14-Year Capital Program

#### All in 000’s Table 2 Expenditures 2015-2021 Page 1

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## Lummi Island Ferry 14-Year Capital Program
### All in 000's Table 2 Expenditures 2022-2028 Page 2

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<tr>
<th>Category</th>
<th>2022</th>
<th>2023</th>
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**TITLE OF DOCUMENT:** Discussion regarding Council’s desires for additional information related to County’s herbicide spray program.

**ATTACHMENTS:**

<table>
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<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
<th>Should Clerk schedule a hearing?</th>
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<td>( ) Yes</td>
<td>( x ) NO</td>
<td>Requested Date:</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This will give the Council an opportunity to decide whether further information is desired from Public Work’s staff regarding the quantity, alternatives, and protocols used in the County’s herbicide spray program, and if further information is desired what that information is.

**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).
## TITLE OF DOCUMENT:
Vacation Rental Discussion

### ATTACHMENTS:
1. Staff Memorandum
2. Draft Zoning Code Amendment
3. July 30, 2014 Oregonian article
4. “Short-Term Rental Housing Restrictions” Paper

Other background information is on file at the Council office.

### 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.)

Discussion of possible options for regulation of vacation rental uses in Whatcom County.

### COMMITTEE ACTION:

### COUNCIL ACTION:

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

TO: County Council
    Jack Louws, County Executive

THROUGH: Mark Personius, AICP, Long Range Planning Manager

FROM: Gary Davis, AICP, Senior Planner

DATE: August 27, 2014

SUBJECT: Vacation Rental Regulation

In recent years there has been an increase in the number of single family dwellings rented on a short-term basis. Such rentals are often marketed as vacation rentals on web sites such as vrbo.com and airbnb.com. There is some concern in the community that these rentals can have impacts on surrounding residents (e.g. noise, parking, etc.), and may pose an equity issue for owners of lodging businesses that are licensed and taxed. This memorandum will focus on the land use aspect of the issue, and not on taxation options or enforcement of nuisance codes.

Currently the Whatcom County Zoning Code (WCC Title 20) does not prohibit rental of single family dwellings, either short-term or long term. Lacking such a prohibition, Planning and Development Services interprets the Zoning Code to permit vacation rentals wherever single family dwellings are permitted.

In response to community concerns about vacation rentals, the Executive has asked Planning and Development Services staff to assemble and briefly describe potential options for regulating them from a land use standpoint. (From a public nuisance standpoint, a "disorderly house" -- rented or not -- is already regulated under WCC Chapter 9.40, and this would continue to be the case no matter how land use regulations are changed.)

The following is a list of options for vacation rental regulation:

---

1 A 2% "Transient Occupancy Tax" is collected by the State Department of Revenue on behalf of the County on "the sale or charge made for the furnishing of lodging by a hotel, roominghouse, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property in Whatcom County." WCC Chapter 3.36. This tax is added to the County’s 8½ % sales tax.
1. **Permitted outright as a single family dwelling.** Allow rentals of any duration in residential zones without conditions.

2. **Permitted with performance standards.** Allow vacation rentals as a permitted use in all rural and residential zones, subject to conditions.

3. **Permitted in specified locations, with performance standards.** Same as 2 but permitted only in certain zones or geographic areas.

4. **Permitted with registration.** Same as 2 or 3 but with licensing or registration requirements.

5. **Prohibition.** Vacation rentals are not permitted uses in any residential zones.

**Current status**

As of July 2014, vrbo.com and airbnb.com each list more than 100 vacation rental properties available in unincorporated Whatcom County (some properties are listed on both sites). The largest clusters of vacation rentals are in the Glacier and Birch Bay areas, with smaller clusters at Point Roberts, Sandy Point, Lummi Island, and Lake Whatcom.

In general, public complaints regarding vacation rentals have centered on noisy behavior of guests, which is enforced by the Sheriff under the “disorderly house” provisions of WCC 9.40. Complaints related to land use considerations (such as overflow parking) often occur when a rental property is used as a special event venue for weddings, retreats, or other gatherings. PDS staff is working to develop regulations for special event facilities with the intention of minimizing impacts to surrounding residents (project file PLN2014-00016).

As stated above, Whatcom County’s zoning code currently has no restrictions regarding rental of single family dwellings, and a vacation rental is not a distinctive land use that is either permitted or prohibited. The zoning code does define and regulate transient room rental in bed and breakfast, rooming house, and hotel uses as shown in the following table:

<table>
<thead>
<tr>
<th>Use</th>
<th>Number of Persons</th>
<th>Number of Rooms</th>
<th>Owner Occupied</th>
<th>Permitted Use in:</th>
<th>Accessory Use in:</th>
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<td>B&amp;B Establishment</td>
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<td>1 or 2</td>
<td>Yes</td>
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<td>UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, R</td>
<td>RF</td>
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<td>Rooming House</td>
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<td>No minimum or maximum</td>
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<td>URM</td>
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“Rooming house” is a permitted use only in the RC zone (except the Maple Beach section of Point Roberts) and a conditional use in URM. A “hotel” or “motel” is a permitted use only in commercial zones, including RC. A “bed and breakfast establishment” (an accessory use in residential and rural zones) allows for renting 1 or 2 rooms, while a “bed and breakfast inn” (a conditional use in residential and rural zones) allows for renting 3 to 5 rooms. Both types of bed and breakfast establishments must be owner-occupied.

**Discussion of Potential Options**

1. **Permitted outright as a single family dwelling.**

   This is the status quo option. The zoning code would continue to make no distinction between single family dwellings that are owner-occupied or rented on a short- or long-term basis. An argument can be made that going through the process of a code amendment to define and regulate vacation rentals would have very little practical effect. The chief concern about vacation rentals is noise, which is and will continue to be enforced by the Sheriff’s office under WCC 9.40 Disorderly House. Noise complaints are also generated at dwellings occupied by owners and long-term renters. It is not known what effect zoning regulations for vacation rentals would have on noise complaints overall — or on other problems sometimes cited such as overflow parking, high traffic generation, or high sewage generation — since these problems can be seen in dwellings occupied by owners and long-term renters as well.

2. **Permitted with performance standards.**

   If decision makers believe there is a compelling reason to regulate vacation rentals as a land use, a relatively simple approach would be to permit them wherever single family dwellings are permitted, with a definition of the use and a list of standards that must be met in order for a vacation rental to be permitted. Jurisdictions have enacted standards related to:
   
   - Disturbance of surrounding residents
   - Parking
- Provision of food service
- Signage
- Owner occupancy
- Business license and taxes
- Maximum occupancy
- Duration of rental period
- Posting of regulations for guests
- Emergency access
- Trash/recycling storage

If Whatcom County expressly permits vacation rentals, it should also adopt a definition of that use to distinguish it from other single family residences, and from rooming houses, bed and breakfasts, or hotels. Typically jurisdictions define short term vacation rentals as units rented for less than 30 days at a time. See the attached draft zoning code amendments, in which staff has written an example of how these code changes could be worded.

Planning and Development Services could enforce the standards listed in the code while "Disorderly House" complaints would continue to be enforced by the Sheriff’s office.

3. **Permitted use in specified locations, with performance standards.**

This would be the same as Option 2, except that vacation rentals would be permitted uses only in certain zones, or in certain geographic locations specified in the code. This could be employed if the decision makers believe the vacation rental use is more appropriate in some areas than in others. As discussed under Option 1, this would involve discussion of what impacts could be expected from vacation rentals versus single family dwellings occupied by owners or long-term renters, and whether some areas are more sensitive to the potential difference in impacts. Given the large number of vacation rentals already in existence, prohibiting them in certain areas could involve increased enforcement action from Planning and Development Services.

4. **Permitted with registration.**

This would be the same as Options 2 and 3, with the addition of registration or licensing requirements in addition to performance standards. Some jurisdictions
require inspections as part of the licensing process to ensure compliance with zoning and building code standards. County resources would have to be dedicated to license/registration recordkeeping and inspections.

5. Prohibition.

This would involve amending the zoning code to define vacation rentals and list them as a prohibited use in each zone. Until recently, the City of Portland, OR prohibited vacation rentals in all its residential zones (it has since enacted a registration program similar to the description in Option 4 above for rental of one or two bedrooms, see attached article). As in Option 3, prohibition would require significant enforcement action from Planning and Development Services.

Conclusion
PDS staff has scheduled a discussion of possible vacation rental regulation for the September 16, 2014 Planning and Development Committee meeting and regular County Council meeting. If the Council chooses to have staff begin a zoning code amendment process, staff recommends consideration of the second option, defining vacation rentals and permitting them subject to standards. The intent is to provide clarity in the zoning code regarding this use and to help property owners and their guests understand their rights and responsibilities. Staff has prepared an initial draft of suggested zoning code text amendments (see attached). If Council wishes to proceed, staff would then schedule the code amendment for Planning Commission consideration in the coming months, and would facilitate outreach and involvement with affected vacation rental unit owners as well as the general public.

The attached paper commissioned by the National Association of Realtors provides a more detailed review of vacation rental regulations across the country. Many jurisdictions employ variations of the options listed above, and many add a registration and inspection element as well. If you have questions or comments, please contact Gary Davis at extension 50246.

Attachments:
Draft Zoning Code Amendment
July 30, 2014 Oregonian article
"Short-Term Rental Housing Restrictions” paper from National Association of Realtors
Whatcom County Code Title 20 Zoning

DRAFT AMENDMENTS

Chapter 20.36

RURAL (R) DISTRICT
(Note: same provisions could also be applied to other zoning districts that permit residential uses)

20.36.100 Accessory Uses.

.110 Vacation rental unit, subject to all of the following standards:

(1) There shall be no more than one vacation rental unit per lot. On lots where there is an accessory dwelling unit, the owner must reside in either the accessory dwelling or the primary dwelling, consistent with WCC 20.36.132(2).

(2) The maximum number of persons permitted to stay in a vacation rental unit shall not exceed three per the number of legally permitted bedrooms being rented. For example, in a house that was permitted as a three-bedroom house, if only one bedroom is being rented as a vacation rental, the maximum number of persons renting is three, and no other room - such as a family room or a fourth bedroom that was not legally permitted - could be used to calculate maximum number of persons in the vacation rental unit.

(3) There shall be no outdoor signage or any other visible feature that would distinguish the unit from surrounding residential units.

(4) The vacation rental shall be operated in a way that will prevent unreasonable disturbances to nearby residents, per WCC Chapter 9.40.

(5) There shall be at least one off-street parking space for the vacation rental unit, in addition to any other required parking.

(6) The owner of the vacation rental shall post notice to renters regarding rules of conduct and their responsibility not to trespass on private property or create disturbances.

(7) The owner of the vacation rental shall comply with all applicable local and state business license and tax regulations.
Chapter 20.97
DEFINITIONS

20.97.445.1 Vacation Rental Unit.

"Vacation rental unit" shall mean a dwelling unit or portion of a dwelling unit that, for compensation, is used to lodge individuals or families for a period of less than thirty days, with no food service.
Portland legalizes Airbnb-style short-term rentals

short term rental Irvington
A portion of this Irvington home was available for short-term rental until someone complained to the city.
(Janet Eastman/The Oregonian)

Elliot Njus | enjus@oregonian.com By Elliot Njus | enjus@oregonian.com
Email the author | Follow on Twitter
on July 30, 2014 at 11:10 AM, updated July 30, 2014 at 7:04 PM

Portland will start issuing permits for its first legal short-term rental operations in private homes as soon as September.

The Portland City Council on Wednesday gave its OK for Portlanders to rent out one or two bedrooms in their home over-the-counter, $180 permit after an inspection and notifying neighbors.

The city Bureau of Development Services, which will oversee the permitting and inspection program, said it’s expecting to start issuing permits Sept. 2. More information on how to apply for a permit would likely be posted online before then, said enforcement manager Mike Liefeld.

"We have to strike a balance between how we accommodate commerce, including this new kind, and our great neighborhoods," said Mayor Charlie Hales, adding, "I think we got it right this time."

Some neighborhood groups had opposed the measure, saying it would bring traffic, noise and a rotating cast of strangers into residential areas.

"We now are mixing commercial and residential," said Robert McCullough, president of the Eastmoreland Neighborhood Association and the Southeast Uplift Neighborhood Coalition, which advocated delaying the decision for more study. "Most people who sign up will be very responsible ... but it obviously is going to be a bit of a shock when people discover there is a rooming house next door."

Users of services like Airbnb turned out in favor of the proposal, saying the ability to rent out rooms provides helpful supplemental income.

In a blog post, a lobbyist for Airbnb hailed the "sensible legislation," but said the company would continue to rally its users in an effort to expand on what's allowed.

Many of the short-term rental operations in the city remain illegal, including those in multifamily apartment and condo buildings and rentals of entire homes, where the owner doesn't live at least 9 months of the year.

http://impact.oregonlive.com/front-porch/print.html?entry=/2014/07/portland_legalizes_air... 8/14/2014
Portland legalizes Airbnb-style short-term rentals

The multifamily structures were left out because, under the city's interpretation of the state building code, most would have to meet similar safety requirements as commercial hotels. Few apartment and condo buildings would live up to that standard.

Whole-house vacation rentals were left out because of concerns they would replace long-term rental housing and contribute to rising housing costs.

But the city council has said it intends to revisit both issues later this year.

The legalization also clears the way for more operators of short-term rentals to start paying required lodging taxes also paid by traditional hotels. Airbnb, one of the most popular online facilitators of short-term rentals, has started collecting those taxes on behalf of its users.

Commissioner Dan Saltzman plans to introduce legislation next week that would put that lodging tax revenue — expected to amount to $500,000 in 2015 — toward an affordable rental housing fund.

Saltzman, who oversees the housing bureau, said diverting the lodging tax revenue would be a small step toward shoring up diminishing resources from urban renewal and the federal government.

"There's a clear nexus between this shared economy and displacing (long-term) renters," he said. "Within that is a good opportunity for the council to start establishing ways to invest in affordable rental housing."

The vote was unanimous, with Commissioner Nick Fish absent.

-- Elliot Njus

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http://impact.oregonlive.com/front-porch/print.html?entry=/2014/07/portland_legalizes_air... 8/14/2014
SHORT-TERM RENTAL HOUSING RESTRICTIONS

White Paper

PREPARED BY

ROBINSON & COLE LLP
ATTORNEYS AT LAW

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# SHORT-TERM RENTAL HOUSING RESTRICTIONS

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PREFACE

This white paper on *Short-Term Rental Housing Restrictions* has been prepared by Robinson & Cole LLP in its capacity as national consultant to NAR. The paper is one in a series of white papers that NAR requests be prepared from time to time in order to focus on a particular smart growth-related issue that has arisen with sufficient frequency in communities around the country to merit a more in-depth analysis.

The analysis of short-term rental housing restrictions in this paper is provided by NAR under its Smart Growth program to help REALTORS® at the state and local level better understand the issues involved in these types of restrictions, and to tailor strategies, as appropriate, to address short-term rental housing regulatory initiatives in their communities.

Brian W. Blaesser
Robinson & Cole LLP
*September 2011*
SECTION 1: INTRODUCTION

1.1 PURPOSE AND SCOPE OF PAPER

This paper was prepared at the request of the National Association of REALTORS® (NAR). The purpose of this paper is to (1) explain the problem of short-term rental housing restrictions; (2) categorize and describe the different approaches taken by local governments to regulate short-term rental housing in their communities; (3) analyze the issues raised by these different regulatory approaches; (4) provide Realtors® with ways to address these issues; and (5) outline “best practices” approaches to short-term rental housing that Realtors® can use in discussing the issue with local government officials.

1.2 KEY TERMS

The term “short-term rental housing” typically means a dwelling unit that is rented for a period of less than thirty consecutive days. In general, short term rental housing differs from bed & breakfasts, hotels, motels, and other “lodging” uses by providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Although bed & breakfasts often are similar in appearance and location to many short-term rentals, they are distinguishable by the presence of the owner/operator on-site.1 Boarding houses differ from short-term rentals by having multiple rooms or units for rent and common kitchen and dining facilities that are shared by the occupants.2 Boarding houses also tend to be less transient than short-term rentals.3 Similarly, hotels and motels are distinguishable from short-term rentals by having separate entrances and an on-site management office.4 In some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, or resort dwelling units.

Terms that appear in **bold typeface** are defined in the Glossary found at the end of this paper.

SECTION 2: OVERVIEW OF SHORT-TERM RENTAL RESTRICTIONS

2.1 PURPOSE – THE MUNICIPAL PERSPECTIVE

Many communities around the country, both vacation destination communities and non-vacation communities, have implemented some form of short-term rental housing regulation. Below is an overview of the most common reasons cited by communities for regulating short-term rental housing.

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2 See APA Report at 5.
3 See APA Report at 5.
4 See APA Report at 5.
2.1.1 Protection of Neighborhood Environment

The most commonly cited municipal purpose for regulating short-term rental housing is to protect the character of existing residential neighborhoods. Often these communities are responding to complaints from permanent residents about the disturbances that may be caused by short-term tenants, including excessive noise, late night parties, trespassing, increased traffic, and other disruptive activities. Generally speaking, the rationale is that vacationers and guests who do not have ties to the local community are more concerned with maximizing their fun than they are with being a good neighbor. This rationale is evident in the “resort dwellings” ordinance adopted by the City of Venice, Florida, which states:

[The] City council finds that resort dwelling rental activities in single-family neighborhoods affects the character and stability of a residential neighborhood. The home and its intrinsic influences are the foundation of good citizenship. The intent of these regulations is to prevent the use of single-family residences for transient purposes in order to preserve the residential character of single-family neighborhoods.⁵

2.1.2 Protection of Physical Characteristics

Some communities also cite the need to protect the physical characteristics of their residential neighborhoods. The underlying rationale is that short-term rental properties generally are not owner-occupied and therefore are less likely to be cared for to the same degree as permanent residences. At least, in theory, absentee property owners are presumed to be less diligent about the types of regular and routine maintenance tasks typically associated with home ownership, such as lawn maintenance, tree and shrub pruning, and exterior painting.

2.1.3 Revenue

For many communities, particularly those with a robust tourist industry, short-term rentals represent a potentially significant source of tax revenue. In Texas, for example, the Hotel Occupancy Tax statute broadly defines the term “hotel” to include any building that offers sleeping accommodations for consideration, including a “tourist home” or “tourist house,” and imposes a six percent tax on the price paid for such accommodations.⁶ Moreover, the Municipal Hotel Occupancy Tax statute authorizes Texas cities, towns and villages to impose and collect an additional nine percent tax on hotels, including short-term rental properties.⁷ The potential revenue available to municipalities with authority to tax short-term rentals is exemplified by a 2011 study prepared by the city auditor for Austin, Texas, which estimated that the city could gain $100,000 to $300,000 annually by collecting taxes on short-term rental properties.⁸ Communities that desire to collect such taxes may impose registration or licensing requirements as a means of identifying properties that are being used for short-term rentals and are therefore subject to taxation.

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⁵ Venice, FL Land Development Code § 86-151.
⁶ See Texas Code §§ 156.001, 156.052. Accommodations of “at least 30 consecutive days, so long as there is no interruption of payment for the period,” are exempt from the tax. Id. § 156.101.
⁷ See Texas Code § 351.003.
⁸ See “City of Austin begins work on short-term rental regulations; Planning Commission to address safety, tax revenue concerns,” (Source: impactnews.com: Central Austin, April 22, 2011).
2.1.4 Fairer Competition with Licensed Lodging

Short-term rental restrictions may also be viewed as a means of leveling the playing field between the short-term rental industry and competing overnight lodging uses that may be specifically regulated under state or local law, such as hotels and bed and breakfasts. In some cases, the hotel industry has lobbied for the adoption of such regulations on the grounds that short-term rentals are functionally the same as hotel units and therefore should either be taxed and regulated like hotels, or prohibited. At a June 2011 meeting of the Planning Board of Buncombe County, North Carolina, for example, several hoteliers cited unfair competition in arguing against the potential repeal of a ban on vacation rentals in the county’s more restrictive residential zoning districts. One industry representative testified that hotels “spend many, many hours and many, many dollars abiding by all the regulations that [hotels] are require to abide by and that many do not apply to short-term rentals.”

2.1.5 Protection of Renter Safety

A less commonly cited reason for the adoption of short-term rental regulations is the protection of renter safety. The rationale is that operational restrictions (e.g., occupancy limits based on septic system capacity) and inspection requirements are necessary to ensure the safety of occupants of short-term rental units. The City of Big Bear Lake, California, for example, has a “transient private home rentals” ordinance that is intended, in part, “to ensure . . . that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions.”

2.2 Types of Short-Term Rental Restrictions

2.2.1 Prohibition

From the perspective of a short-term rental property owner, the most severe form of restriction is an outright ban on short-term rentals. A short-term rental prohibition may be limited to specific neighborhoods or zoning districts, or may be community-wide.

2.2.2 Geographically-Based Restrictions

Communities that choose to allow short-term rentals often use their zoning authority to regulate the use on a geographic basis. For example, Venice, Florida regulates short-term rental properties (referred to locally as “resort dwellings”) only in the city’s Residential Estate (RE) and Residential Single Family (RSF) zoning districts. Similarly, Maui County, Hawaii permits transient vacation rentals only within certain business zoning districts and certain designated

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9 “Buncombe planners wade into Asheville-area vacation rental issue again; County debates relaxing the rules,” *The Asheville Citizen-Times*, June 6, 2011.
10 City of Bear Lake, CA Municipal Code § 17.03.310(A).
11 See generally Venice, FL Land Development Code § 86-151.
“destination resort areas,” including the Wailea, Makena, Kaanapali, and Kapalua Resort Areas.\footnote{See Maui County, HA County Code § 19.38.030(B).}

2.2.3 Quantitative and Operational Restrictions

Other communities that allow short-term rentals may choose to implement a cap on the number of short-term rental permits that may be issued. Such an approach constitutes a compromise between short-term rental owners who argue that they have the right to rent their properties on a short-term basis, and opponents who argue that short-term rentals should be prohibited as an unlawful commercial use in a residential neighborhood. Quantitative restrictions may take the form of a fixed limit on the total number of short-term rental permits that may be issued at any given time. The City of Santa Fe, New Mexico, for example, authorizes the Land Use Director to issue “up to 350 short term rental permits” for residential properties that do not otherwise qualify for permits as an accessory dwelling unit, owner-occupied unit, or unit located within a development containing resort facilities.\footnote{See Santa Fe, NM City Code § 14-6.2(A)(6)(a)(f).} Similarly, the City of Cannon Beach, Oregon maintains a 92 permit cap on the number of transient rental permits that will be issued by the city.\footnote{See City of Cannon Beach, OR Zoning Code § 17.77.020(F).}

Alternatively, a community may implement a proximity restriction that prohibits a short-term rental property from being located within a certain distance of another short-term rental property. The “Residential Vacation Rentals” ordinance of San Luis Obispo County, California, for example, provides:

\textit{[N]o residential vacation rental shall be located within 200 linear feet of a parcel on the same block on which is located any residential vacation rental or other type of visitor-servicing accommodation that is outside of the Commercial land use category.}\footnote{San Luis Obispo County, CA Code § 23.08.165(c).}

Another type of quantitative restriction is that in the Mendocino County, California zoning ordinance, which requires the county to maintain a ratio of “thirteen (13) long term residential dwelling units to one (1) single unit rental or vacation home rental.”\footnote{Mendocino County, CA Code § 20.748.020(A).}

Many short-term rental regulations incorporate performance-type standards for the operation of short-term rental properties. Below are examples of these types of standards that are frequently incorporated into short-term rental regulations:

- \textbf{Maximum Occupancy Limits:} This standard limits the maximum overnight occupancy of short-term rental properties based on the number of bedrooms in the home (for example, the Isle of Palms, South Carolina limits overnight occupancy to two persons per bedroom plus an additional two persons\footnote{See Isle of Palms, SC City Code § 5-4-202(1).}) and/or on the septic capacity of the property. In Sonoma County, California, for example, the maximum overnight occupancy of a vacation rental property on a conditional septic system is “equal to the design load of the septic system.”\footnote{See Sonoma County, CA Code of Ordinances § 26-88-120(%)2.}

\footnotesize\textsuperscript{12} See Maui County, HA County Code § 19.38.030(B).
\footnotesize\textsuperscript{13} See Santa Fe, NM City Code § 14-6.2(A)(6)(a)(f).
\footnotesize\textsuperscript{14} See City of Cannon Beach, OR Zoning Code § 17.77.020(F).
\footnotesize\textsuperscript{15} San Luis Obispo County, CA Code § 23.08.165(c).
\footnotesize\textsuperscript{16} Mendocino County, CA Code § 20.748.020(A).
\footnotesize\textsuperscript{17} See Isle of Palms, SC City Code § 5-4-202(1).
\footnotesize\textsuperscript{18} See Sonoma County, CA Code of Ordinances § 26-88-120(%)2.
- **Rental Period Restrictions**: This restriction places a limit on the number of times a property may be rented for short-term occupancy. The City of Santa Fe, New Mexico, for example, limits short-term rental units to a maximum of 17 rental periods per calendar year and permits no more than one rental within a seven consecutive day period.\(^\text{19}\)

- **Parking Requirements**: This standard may require that the short-term rented property provide more off-street parking than comparable properties that are occupied by owners or long-term tenants. Santa Fe also specifically prohibits short-term rental occupants from parking recreational vehicles on site or on the street.\(^\text{20}\)

- **Noise Level Limits**: This standard applies specific noise level limitations to activities associated with short-term rental properties. Sonoma County’s vacation rental ordinance, for example, includes an “Hourly Noise Metric” table that imposes specific quantitative noise level limits on vacation rentals during “activity hours” (9:00 a.m. to 10:00 a.m.) and “quiet hours” (10:00 p.m. to 9:00 a.m.).\(^\text{21}\)

- **Required Postings**: This standard requires owners to prominently display a copy of the operational restrictions and contact information for the owner, manager, or other representative of the rental property.\(^\text{22}\) Owners may also be required to incorporate the operational restrictions in all rental agreements.

- **Emergency Access Requirements**: If located behind a locked gate or within a gated community, short-term rental units may be required to provide a gate code or lockbox with keys to local police, fire, or emergency services departments.\(^\text{23}\)

- **Mandatory Designated Representatives**: This standard requires that the short-term renter provide a current 24-hour working phone number of the property owner, manager, or other designated representative to local officials and to property owners within a certain distance of the rental unit. Some communities also require that the designated representative be available during all rental periods within a certain distance (e.g., a one-hour drive) of the rental property.\(^\text{24}\)

- **Trash and Recycling Facility Storage**: This standard requires that trash and recycling bins be stored in a location that is not visible from public rights-of-way. Section 5.25.070 of the City of Palm Springs, California vacation rental ordinance, for example, states: “Trash and refuse shall not be left stored within public view, except in proper containers for the purpose of collection by the collectors and between the hours of five a.m. and eight p.m. on scheduled trash collection days.”\(^\text{25}\)

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\(^\text{19}\) See Santa Fe, NM City Code § 14-6.2(4)(b)(ii).
\(^\text{20}\) See Santa Fe, NM City Code § 14-6.2(4)(b)(ii).
\(^\text{21}\) See Sonoma County, CA Code of Ordinances § 26-88-120(f)(6).
\(^\text{22}\) See, e.g., Venice, FL Land Development Code § 86-151(2)(b)(1).
\(^\text{23}\) See, e.g., Sonoma County, CA Code of Ordinances § 26-88-120(f)(14).
\(^\text{24}\) See, e.g., Sonoma County, CA Code of Ordinances § 26-88-120(f)(13).
\(^\text{25}\) Palm Springs, CA Municipal Code § 5.25.070(g).
2.2.4 Registration/Licensing Requirements

Owners who intend to offer their property for use as a short-term rental unit may be required to register their property with the local government. Garrett County, Maryland, for example, requires owners to register their property with the Office of Licensing and Enforcement Management and to pay a one-time fee as condition precedent to receiving a “transient vacation rental unit license” from the County.\textsuperscript{26} Short-term rental licenses often are valid only for a one- or two-year period, requiring property owners to renew the licenses—and to pay associated fees—on a regular basis.

Many communities require short-term rental properties to pass certain inspections prior to the issuance of a permit, license, or renewal. Tillamook County, Oregon, for example, as a condition to the issuance of a short-term rental permit, requires property owners to obtain a certification from a certified building inspector evidencing compliance with all applicable operational standards, including minimum fire extinguisher and smoke detector requirements, emergency escape and rescue standards, and structural requirements.\textsuperscript{27}

2.3 Enforcement

Communities typically enforce their short-term rental regulations (a) in accordance with a generally applicable enforcement provision contained in the code of ordinances or zoning ordinance, or (b) through a specific enforcement provision incorporated into the short-term rental regulations. Article 9 of the Isle of Palms, South Carolina Code of Ordinances is one example of a short-term rental ordinance that contains no specific enforcement provision, but is enforced under a generally applicable penalty provision.\textsuperscript{28} Under the Isle of Palms Code of Ordinances, violation of the short-term rental ordinance is subject to the same penalties and procedures as a violation of any other provision the zoning code. Potential penalties for a violation are established under Section 5-4-7 of the Code of Ordinances, which states:

In case a structure or land is or is proposed to be used in violation of this chapter, the Zoning Administrator may, in addition to other remedies, issue and serve upon any person pursuing such activity or activities a \textit{stop order} requiring that such person immediately cease all activities in violation of this chapter.

Any person violating any of the provisions of this chapter shall be deemed guilty of a \textit{misdemeanor} and shall for each violation, upon conviction thereof, be punished as provided in section 1-3-66. Each day that a violation continues shall constitute a separate offense.\textsuperscript{29}

\textsuperscript{20} See Garrett County, MD Code of Ordinances § 160.03(A).
\textsuperscript{21} See Tillamook County (OR) Short Term Rental Ordinances, Sections 6 (Standards) and 9.A.b (Short Term Rental Permit Application Requirements).
\textsuperscript{22} See generally Isle of Palms, SC City Code §§ 5-4-201 to -206 (Short-Term Rentals) and § 5-4-7 (Violations and Penalties).
\textsuperscript{23} Isle of Palms, SC City Code § 5-4-7 (Emphasis added).
By contrast, the short-term rental ordinances of Sonoma County, California and Santa Fe, New Mexico contain specifically applicable enforcement provisions. Under Section 26-88-120(g) of the Sonoma County vacation rental ordinance, individuals who register an initial complaint about a vacation rental property are directed to the contact person identified in the zoning permit or use permit issued for the property. Subsequent complaints are addressed to code enforcement officials who are responsible for conducting an investigation to determine whether there was a violation of a zoning or use permit condition. Code enforcement may accept neighbor documentation consisting of photos, sound recordings and video as proof of an alleged violation. If code enforcement verifies that a violation has occurred, then a notice of violation is issued and a penalty may be imposed in accordance with Chapter 1 of the Sonoma County Code. In addition, under Section 26-88-120(g)(1), code enforcement officers are also given the discretion to schedule a revocation hearing with the board of zoning adjustment. If a vacation rental permit is revoked, then a new zoning or use permit for a vacation rental may not be reapplied for or issued for a period of at least one year.\textsuperscript{30} Santa Fe’s short term rental unit ordinance includes a specific provision that authorizes the city to revoke a short term rental permit upon conviction for a third violation of the ordinance.\textsuperscript{31}

### SECTION 3: IMPACTS OF SHORT-TERM RENTAL RESTRICTIONS

#### 3.1 Impacts on Rental Property Owners

##### 3.1.1 Rental Income

For some rental property owners, the adoption of short-term rental restrictions may result in the loss of rental income altogether. The most obvious example is an owner of property located in a zoning district where short-term rentals are no longer allowed under a local ordinance. In areas where short-term rentals are allowed, other property owners might face the loss of rental income due to their inability, for financial or other reasons, to satisfy the requirements for obtaining a permit, such as minimum off-street parking or structural requirements. As discussed in Section 5.3.6 below, some short-term rental regulations might also cause an owner to lose rental income because of suspension or revocation of a rental permit, even if the reason for suspension or revocation is beyond the owner’s control (e.g., tenant behavior).

There are several ways in which a short-term rental restriction might also result in a decrease in rental income. An ordinance that restricts the number of times a property may be rented per year could have a significant impact on the property’s income potential. Santa Fe, New Mexico, for example, limits short-term rentals to 17 rental periods per year.\textsuperscript{32} A maximum overnight occupancy provision could also negatively affect the income potential of a rental property by reducing the number of guests to whom a home may be rented. Rental restrictions can also cause a reduction in rental income where they have the effect of narrowing the field of potential tenants or discouraging vacationers from renting a home. For example, an ordinance that prohibits

\textsuperscript{30} See generally Sonoma County, CA Code of Ordinances § 26-88-120(g).
\textsuperscript{31} See Santa Fe, NM City Code § 14-6.2(A)(6)(a)(iv).
\textsuperscript{32} See Santa Fe, NM City Code § 14-6.2(A)(6)(a)(ii)(B).
short-term occupants from parking a recreational vehicle on site or on the street might deter families who travel by RV from renting a home in Santa Fe.\footnote{Section 14-6.2(A)(6)(a)(ii)(E) of the Santa Fe Short Term Rental Ordinance states: “Occupants shall not park recreational vehicles on site or on the street.”}

3.1.2 Property Values

Short-term rental restrictions can affect property values in different ways. Generally speaking, all else being equal, if identified negative impacts of short-term rentals in a district or neighborhood are reduced or eliminated by short-term rental housing restrictions, property values may increase. On the other hand, the added limitations on the use of properties that short-term rental housing restrictions impose may cause property values in the district or neighborhood to decrease. The precise impact that short-term rental restrictions have on property values will depend on various factors, including the general character of the community (e.g., vacation destination versus non-destination community), the precise terms of the ordinance, local and national economic conditions, and local real estate market conditions.

3.1.2.1 Existing Short-Term Rental Properties

In general, the value of a home that was used as a short-term rental prior to the adoption of restrictions, but is either prohibited or restricted from future use as a short-term rental, can be expected to decrease. That is particularly true in vacation destination communities, where homeowners often purchase second homes as investment properties.\footnote{See National Association of Realtors®, \textit{Nearly One in Seven Homebuyers Owned or Bought A Second Home During First Quarter}, July 13, 2003 (accessed at http://www.realtor.org/publicaffairsweb.nsf/Pages/SecondHomeReport?OpenDocument).} These potential buyers often plan to use the second home as a short-term rental property until they retire or otherwise become able to maintain the property as their full-time residence.\footnote{See id.} Such buyers would tend to be less interested in purchasing in an area where the short-term rental market is highly uncertain or is constrained by burdensome regulations.

In some circumstances, it is conceivable that a short-term rental ordinance could increase the value of those homes that were used as short-term rentals prior to the adoption of the restrictions and become lawfully licensed for use under the new regulations. Under the general economic principle of supply and demand, if an ordinance has the effect of reducing the supply of short-term rental properties and the demand for short-term rental properties rises or remains constant, then the value of individual properties licensed as short-term rental properties after the adoption of regulations, can be expected to rise.

3.1.2.2 Properties Not Previously Used as Short-Term Rental Properties

The impact of short-term rental restrictions on the value of properties that were not used as short-term rentals prior to adoption of the restrictions will also vary. The value of a property that becomes licensed as a short-term rental for the first time under a new ordinance conceivably could \textit{increase} if the quantity of short-term rental properties on the market falls as a result of the
ordinance. In residential neighborhoods where the existence of short-term rentals is considered a negative, an ordinance that prohibits future short-term rental activity in those neighborhoods could positively affect the value of homes in these locations.

3.1.3 Operational Costs

Short-term rental regulations tend to increase the cost of owning and operating a rental property in a number of ways. The regulations typically require owners to pay an up-front registration or permit fee and may also require payment of additional licensing fees on an annual or other recurring basis. Inspection requirements also add to the cost of operating a short-term rental since, in most cases, the inspections are performed at the owner’s expense. Performance standards may also require an owner to undertake costly improvements in order to obtain a short-term rental permit. An owner may be required to expand an existing driveway in order to satisfy a minimum parking requirement or to upgrade electrical or sewer systems in order to qualify for a permit. In addition, a rental property owner who resides out of state may have to hire a property manager in order to satisfy a requirement that a designated representative be available at all times and within a certain proximity of the unit during any rental period.

3.1.4 Nonconforming Use Status

A property that was used as a short-term rental prior to the adoption of an ordinance that no longer allows short-term rentals may become a nonconforming use under state and local zoning laws. Although state and local laws zoning laws typically allow nonconforming uses to continue, the right to alter or expand a nonconforming use is usually limited and often requires the issuance of a special permit, or an equivalent form of zoning relief, from the local planning commission or board of appeals. In addition, a nonconforming use that is discontinued for a specific period of time (typically one or two years) may be deemed abandoned, and thereafter prohibited from resuming at a future date.

3.2 Community Impacts

3.2.1 Local Real Estate Market

In vacation destination communities, many property owners depend on the income gained from short-term rentals to pay their mortgages, real estate taxes, association dues, and other expenses. If that income is taken away or severely reduced by short-term rental restrictions, the only alternative for those homeowners might be to sell their homes immediately in order to avoid foreclosure or a distressed sale. A widespread ban on short-term rentals that results in a substantial number of homes being sold or foreclosed upon may flood the market, causing property values to fall and remain depressed for a period of time.

3.2.2 Tourism

Short-term rental restrictions may negatively impact local tourism in at least two ways. First, they may affect the occupancy rates of vacation rentals by increasing the per-person cost of short-term rentals because they limit the maximum occupancy of a short-term rental unit. Short-
term rental restrictions may also cause rental property owners to increase their rental rates and minimum security deposits in order to cover the increased cost of operating a short-term rental and the risk of incurring a fine or having their rental licenses revoked or suspended. All else being equal, the higher rental rates paid by smaller groups of tenants, increase the per-person cost of short-term rentals in communities with short-term rental ordinances.

Second, tourists who become aware of the new restrictions may perceive them as being motivated by, and evidence of, an "anti-tourist" sentiment among full time residents of the community. Regulations that single out short-term rentals for different treatment may implicitly brand short-term renters as being potentially disruptive even though an individual tenant may have done nothing wrong. Provisions that allow random inspections of short-term rentals without imposing reasonable restrictions on the time or manner of those inspections may be perceived as an invasion of privacy and an unreasonable disruption of a family vacation. A perceived anti-tourist sentiment may ultimately discourage tourists from vacationing in that community.

A January 2010 report prepared by the Napa Valley Vacation Rental Alliance, argued that the availability of short-term rental properties could determine where a family or groups of friends vacationing together chooses to stay. The report states:

Throughout the world, some travelers prefer private dwellings to hotels. For instance, those traveling as a family or group of friends often want spacious accommodations and kitchens. This market segment will not substitute conventional lodging if vacation rentals are not provided, they will simply go elsewhere. Thus, by eliminating vacation rentals, Napa County would deter a substantial number of visitors who currently spend on restaurants, wine, attractions and services and who would instead spend for leisure outside our County.

The 2008 study "Economic Impact of Transient Vacation Rentals (TVRs) on Maui County" commissioned by the Realtors® Association of Maui (the "Maui TVR Study") reached a similar conclusion. Acknowledging that "the TVR industry is concerned about . . . the potential enactment of legislation meant to marginalize [the TVR] industry, and the potential economic consequences of such policies," the Maui TVR Study concluded:

The extent of the loss of the TVR industry due to government regulations depends on what extent TVR visitors substitute an alternative Maui County accommodation type to TVRs if they are unavailable or not sufficiently available to meet the current and expected future demand level for their accommodation type. In a global market place with alternatives to Maui destinations offering a literal potpourri of accommodation experiences, the modern, well-informed and sophisticated visitor can find the accommodations experience that best fits their tastes and preferences.

37 "Economic Impact of Transient Vacation Rentals (TVRs) on Maui County," prepared by Dr. Thomas Loudat & Dr. Prahlad Kasturi for the Realtors® Association of Maui (Jan. 8, 2008) (hereinafter the "Maui TVR Study").
Based on the increasing market share of TVRs on Maui from 2000 to 2006 relative to other accommodation types one can reasonably surmise that the modern visitor increasingly prefers a TVR or its equivalent experience. Thus, even though elimination of Maui TVRs may not result in the loss of all TVR visitors who may substitute an alternative Maui County accommodation type yet available, we would still expect a significantly negative economic impact in Maui County if TVRs are eliminated or significantly reduced.\(^\text{38}\)

3.2.3 Local Economy

Local economies that lean heavily on the tourist economy are more susceptible to the potential impacts of short-term rental restrictions. Even a slight impact on tourism in these communities can have a significant negative effect on the viability and success of restaurants, retail establishments, and other local businesses that provide services to tourists. The potential dollar impacts of a reduction in visitor numbers due to a short-term rental restriction is illustrated by the daily spending calculations of the Maui TVR Study, which calculated that transient vacation rental visitors spent an average of $159.16 per day in Maui County.\(^\text{39}\) Based on 2006 transient vacation rental visitor data (105,967) and a 6.85 day average length of stay, the study concluded that transient vacation rentals produced more than $115 million in total revenue from lodging, food and beverage, entertainment, shopping, and other county businesses and services.\(^\text{40}\)

3.2.4 Tax Revenue

Short-term rental restrictions can have a positive effect on tax revenue if communities are authorized by state law to impose and collect a tax on short-term rentals. Cities, towns and villages in Texas, for example, are authorized by the Municipal Hotel Occupancy Tax statute to impose and collect a nine percent tax on the price paid for short-term rentals.\(^\text{41}\) In 2011, the City of Austin estimated that it could gain an additional $100,000 to $300,000 in tax revenue by taxing short-term rental properties.\(^\text{42}\)

At the same time, however, short-term rental restrictions that negatively affect local tourism could cause sales tax revenue to decrease if restaurant and retail sales are down due to diminished tourism.

3.2.5 Affordable Housing

Short-term rentals can affect housing costs in a community. When property owners elect to rent their homes on a short-term basis rather than renting on a longer-term basis (e.g., by the season or by the year), “they essentially squeeze the supply of housing, pushing up the demand, and subsequently, the cost” of housing in the community.\(^\text{43}\) In some cases, allowing short-term rentals may fuel speculation in rising housing markets by allowing investors to cover the

\(^{38}\) Maui TVR Study at 1-2.
\(^{39}\) See Maui TVR Study at 16.
\(^{40}\) See Maui TVR Study at 16-17
\(^{41}\) See Texas Code § 351.003.
\(^{42}\) See “City of Austin begins work on short-term rental regulations; Planning Commission to address safety, tax revenue concerns,” (Source: impactnews.com: Central Austin, April 22, 2011).
carrying costs of a house for a period of time while the property appreciates in value and then sell it for a profit.\textsuperscript{44} Tourist communities, in particular, may be affected if the workers in low-paying service and tourism related jobs can no longer afford to live in the community or within a reasonable commuting distance.\textsuperscript{45}

3.2.6 Governmental Administrative Costs

Short-term rental restrictions create additional administrative burdens on local government, including the processing of permit, licensing and registration applications. Local building officials are likely to be faced with an increased volume of required inspections. Code enforcement personnel and the police officers may be required to assume additional enforcement duties under a short-term rental ordinance. The financial burden of administering a short-term rental ordinance may weigh heavily on vacation-destination communities, where the a high volume of short-term rental properties may require local government to hire additional staff or pay increased overtime costs to current staff in order to implement the short-term rental program.

3.3 Impacts on Renters

3.3.1 Rental Fees

As discussed above, the adoption of short-term rental restrictions may cause rental property owners to increase rental rates as a means of recovering licensing and permit fees, inspection and other related costs. If regulations expose a property owner to the risk of incurring a fine or having the owner’s rental license suspended or revoked, the owner may also increase the minimum security deposit as a means of deterring tenants from engaging in behavior that might violate the short-term rental regulations.

3.3.2 Inventory of Short-Term Rental Units

Short-term rental restrictions can also reduce the inventory of short-term rental units in a community in various ways. For example, zoning regulations may prohibit short-term rentals in single-family residential zoning districts or within certain areas or neighborhoods. An owner who successfully operated a short-term rental property without complaint prior to the adoption of licensing requirements may be barred from continuing the use if the property does not conform to the new licensing criteria. More generally, owners may simply decide they do not want to assume the increased cost and risk of continuing to use their property as a short-term rental, and withdraw their properties from the inventory of short-term rental in the community.

\textsuperscript{43} APA Report at 2.
\textsuperscript{44} See id.
\textsuperscript{45} See id.
3.4 UNINTENDED CONSEQUENCES OF SHORT-TERM RENTAL RESTRICTIONS

3.4.1 “Underground Market” for Short-Term Rental Units

Short-term rental restrictions that impose high permit and licensing fees, onerous inspection requirements, and performance standards that are difficult or costly for owners to satisfy might have the unintended effect of creating an underground market for short-term rentals, in which owners continue to rent their properties without obtaining the required permits. Owners who depend on rental income to pay their mortgages to pay the maintenance costs of a second home may be willing to risk incurring fines and other penalties if an ordinance creates obstacles that cannot be overcome or that may make it economically infeasible to obtain a rental permit.46

3.4.2 Uncertainty in the Short-Term Housing Market

A short-term rental regulation that authorizes the suspension or revocation of a short-term rental permit can also introduce a degree of uncertainty in the short-term rental housing market. Vacation travelers often reserve short-term housing accommodations several months in advance of a planned vacation, particularly when the stay is planned during a destination’s peak visitation period. Under those circumstances, for example, it is conceivable that a family may make a reservation and pay a deposit several months in advance of a holiday ski vacation only to discover later that the home they had reserved is no longer available because its short-term rental permit was suspended or revoked. In some cases, by the time a vacation home renter makes that discovery, it may be too late to find suitable alternative short-term housing, leaving the vacationer with a negative impression of the local community—an impression that the vacationer is likely to share with others.

SECTION 4: LEGAL ISSUES RAISED BY SHORT-TERM RENTAL RESTRICTIONS

4.1 AUTHORITY TO REGULATE

In general, short-term rental restrictions are typically adopted under the specific authority of a state zoning enabling statute or the general police power delegated to local governments by the state constitution, or by statute. Zoning regulations that restrict short-term rentals in residential areas have been upheld where the restrictions are found to be substantially related to land use impacts in the area.47 Prohibiting short-term occupancy in single-family areas has been held to be within the lawful scope of the zoning power.48

However, in 2011 the Florida State Legislature enacted legislation that specifically limits the authority of local governments to regulate or prohibit short-term rentals. Enacted as Chapter No.

46 See “More destinations shut the door on vacation rentals, USA Today, August 6, 2010 (commenting that the ban on short-term rentals in New York City apartments, most of which are already prohibited under many condominium and co-op bylaws, “will simply go further underground”).


2011-119 on June 2, 2011, the Florida law (entitled "An act relating to public lodging establishments and public food service establishments") states:

A local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.\(^49\)

As of the date of this paper, Florida appears to be the only state to have enacted legislation limiting the authority of local governments to regulate or prohibit short-term rentals. It is conceivable, however, that the Florida law may become a model for other states. This would appear to be the most likely in those states where short-term rentals comprise a meaningful segment of the tourist lodging industry.

4.2 **Takings**

It is well established that a land use regulation that is excessively restrictive may constitute a "taking" of property for which compensation must be paid under the state constitution and the Fifth and Fourteenth Amendments to the United States Constitution.\(^50\) The prevailing test for determining whether a regulatory taking has occurred was established in the landmark case of *Penn Central Transportation Co. v. City of New York*,\(^51\) decided by the United States Supreme Court in 1978. The *Penn Central* test requires a balancing of the public and private interests involved in each case, weighing the following three factors: (1) the economic impact of the regulation on the property owner; (2) the extent to which the regulation interferes with the property owner's "distinct investment-backed expectations;" and (3) the character of the governmental action (i.e., physical invasion v. economic interference).\(^52\)

The application of the *Penn Central* "balancing test" is illustrated in an Oregon case that concerned a takings challenge to a short-term rental ordinance. In that case\(^53\) rental property owners challenged a City of Cannon Beach, Oregon ordinance that prohibited the creation of new transient occupancy uses and required existing transient occupancy uses to end by 1997. The petitioners claimed that Ordinance 92-1 constituted a taking of property without just compensation under the Fifth and Fourteenth Amendments.\(^54\) The Supreme Court of Oregon, however, upheld Ordinance 92-1, focusing ultimately on the economic impact of the restrictions:

We next consider whether Ordinance 92-1, by prohibiting transient occupancy, denies property owners economically viable use of their properties. We conclude that it does not. On its face, Ordinance 92-1 permits rentals of dwellings for periods of 14 days or more. The ordinance also permits the owners themselves to reside in the dwellings.


\(^50\) PATRICIA E. SALKIN, 2 AMERICAN LAW OF ZONING § 16:1 (5th ed. 2008) (hereinafter "SALKIN").


\(^52\) SALKIN § 16:9 (citing *Penn Central*, 438 U.S. at 124).

\(^53\) *Cope v. City of Cannon Beach*, 855 P.2d 1083 (Or. 1993).

\(^54\) See id. at 1084.
Although those uses may not be as profitable as are shorter-term rentals of the properties, they are economically viable uses.\textsuperscript{55}

As the court’s analysis indicates, plaintiffs who challenge a short-term rental restriction as a taking of property face an uphill battle. As a practical matter, it is difficult to argue that a short-term rental prohibition denies the owner of all economically viable use of his land, particularly where longer-term rentals are still allowed.

4.3 \textbf{Due Process}

The Fourteenth Amendment to the U.S. Constitution prohibits any governmental action that deprives “any person of . . . liberty or property, without \textbf{due process} of law.” This clause imposes both substantive and procedural requirements. The substantive component of the due process clause, known as “substantive due process,” tests the governmental purposes implemented by land use regulations. To satisfy substantive due process, a regulation must advance a legitimate governmental purpose.\textsuperscript{56} In general, a local land use ordinance will survive a substantive due process challenge if there exists a rational relationship between the terms of the ordinance and a legitimate governmental interest.\textsuperscript{57} A local ordinance may be challenged on due process grounds either on its face, or as applied to a particular case. When a landowner makes a \textit{facial} challenge to a zoning ordinance, “he or she argues that \textit{any} application of the ordinance is unconstitutional.”\textsuperscript{58} On the other hand, when a landowner makes an \textit{as applied} challenge, he or she attacks “only the specific decision that applied the ordinance to his or her property, not the ordinance in general.”\textsuperscript{59}

In a California case,\textsuperscript{60} the plaintiffs challenged the city of Carmel’s transient rental ordinance on substantive due process grounds, arguing that the prohibition was “not rationally related to the goals sought to be achieved.”\textsuperscript{61} The California court of appeals rejected the substantive due process claim, finding that the ordinance was rationally related to the goals and policies set forth in the city’s general plan, as well as the stated purpose of the R-1 district.\textsuperscript{62} In support of its conclusion, the court explained that short-term rentals were inconsistent with the residential character of the community:

\textit{It stands to reason that the “residential character” of a neighborhood is threatened when a significant number of homes—at least 12 percent in this case, according to the record—are occupied not by permanent residents but by a stream of tenants staying a week-end, a week, or even 29 days. Whether or not transient rentals have the other “unmitigatable, adverse impacts” cited by the council, such rentals undoubtedly affect the essential character of a neighborhood and the stability of a community. Short-term tenants have little interest in public agencies or in the welfare of the citizenry. They do not participate in local government, coach little league, or join the hospital guild. They}

\textsuperscript{55} \textit{Id.} at 1086-87 (internal citations omitted).
\textsuperscript{56} See SALKIN § 15.2.
\textsuperscript{57} See id.
\textsuperscript{58} \textit{WMX Technologies, Inc. v. Gasconade County}, 105 F.3d 1195, 1198-99 n.1 (8th Cir. 1997) (emphasis added).
\textsuperscript{59} See SALKIN § 15.2.
\textsuperscript{61} \textit{Id.} at 1596.
\textsuperscript{62} See \textit{id.} at 1589.
do not lead a scout troop, volunteer at the library, or keep an eye on an elderly neighbor. Literally, they are here today and gone tomorrow—without engaging in the sort of activities that weld and strengthen a community. 63

Referring back to its discussion of Carmel’s stated goals, the court summarily concluded:

We have already determined that the ordinance is rationally related to the stated goal. Carmel wishes to enhance and maintain the residential character of the R-1 District. Limiting transient commercial use of residential property for remuneration in the R-1 District addresses that goal. 64

The California state court decision illustrates the difficulty of challenging a short-term rental restriction on substantive due process grounds. In general, a short-term rental restriction seems likely to survive substantive Due process scrutiny if the local jurisdiction articulates a legitimate governmental interest (e.g., the protection of residential character in predominantly single-family neighborhoods), and can produce some findings connecting short-term rental activity to the types of neighborhood and community impacts described in Carmel’s transient rental ordinance.

4.4 EQUAL PROTECTION

The Equal Protection Clause of the Fourteenth Amendment commands that no State shall “deny to any person within its jurisdiction the equal protection of the laws,” which states the basic principle that all persons similarly situated should be treated alike. 65 The general rule is that a state or local law is presumed to be valid and will be sustained if the classification drawn by the law is rationally related to a legitimate state interest. 66 If a local or state law does not involve a suspect classification (e.g., one that treats persons differently on the basis of race, alienage, or national origin) or a fundamental right (e.g., the right to vote, the right to interstate travel), then an equal protection challenge is analyzed under the rational basis test. The rational basis test is a very deferential test, under which an ordinance generally will be upheld if there is any “reasonably conceivable state of facts that could provide a rational basis for the classification.” 67

Moreover, the rational basis test does not require a legislative body to articulate its reasons for enacting an ordinance, because “[i]t is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature.” 68 This means that a court may find a rational basis for a law, even if it is one that was not articulated by the legislative body.

A short-term rental ordinance may be vulnerable to an equal protection challenge on the ground that it treats similar properties differently based on whether a property is occupied by short-term tenants or longer term tenants. For example, take an ordinance that generally does not impose a

63 Id. at 1591.
64 Id. at 1596.
maximum occupancy limit on single family homes in a city's residential zoning districts, but does impose such a limit on homes that are used for short-term rentals. On its face, this ordinance treats similar properties (i.e., single family homes in the same zoning district) differently, based on whether they are used as a short-term rental. Because no suspect classification or a fundamental right is implicated, an equal protection claim against the ordinance would be reviewed under the deferential rational basis test. For the same rational basis reasons discussed above in connection with a substantive due process challenge, the short-term rental ordinance is likely to survive judicial scrutiny.

Since 2000, as a result of the U.S. Supreme Court decision in Village of Willowbrook v. Olech,69 "selective enforcement" claims in land use cases may also be brought under the Equal Protection clause. Selective enforcement claims generally assert that a municipality arbitrarily applied its land use ordinance to a conditional use permit or other land use approval, or that enforcement of the ordinance was arbitrarily selective.70 In Olech, the village refused to supply water to the plaintiffs unless they granted the village an easement that it had not required of other property owners. It was alleged that the village did so to retaliate for the plaintiffs having brought an earlier, unrelated suit against the village. The question before the Supreme Court was whether an individual who does not have a suspect classification or fundamental interest claim can nevertheless establish a "class of one" equal protection violation when vindictiveness motivated the disparate treatment. The Court held:

Our cases have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. In so doing, we have explained that "the purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents."71

From a plaintiff's perspective, the difficult part of the Olech decision is its requirement that selective enforcement claims involve intentional treatment. Moreover, it is unclear whether the intentional treatment rule requires merely an intent to do an act or, more specifically, the intent to harm or punish an individual for the exercise of lawful rights.72 Since Olech, most cases involving "class of one" equal protection claims that assert selective enforcement have not been successful.73

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70 BRIAN W. BLAESER & ALAN C. WEINSTEIN, FEDERAL LAND USE LAW & LITIGATION § 1:20 (Thomson-Reuters/West 2011) (hereinafter "BLAESER & WEINSTEIN").
71 Olech, 528 U.S. at 564 (citations omitted).
72 See BLAESER & WEINSTEIN § 1:20.
73 See generally BLAESER & WEINSTEIN § 1:20, fn. 7.
SECTION 5: WAYS TO ADDRESS PROPOSALS TO ESTABLISH SHORT-TERM RENTAL RESTRICTIONS

5.1 QUESTION THE NEED FOR SHORT-TERM RENTAL RESTRICTIONS

One of the first questions that should be asked when a city or town proposes to adopt a short-term rental ordinance is whether there truly exists a need for the restrictions. In some cases, the perceived need for a short-term rental ordinance may be based solely on anecdotal evidence about the alleged problems caused by short-term rental tenants rather than on documented evidence that short-term rental tenants are causing problems. If nothing more than anecdotal evidence is provided in support of a proposed ordinance, it may allow opponents to later argue that it was adopted arbitrarily without any rational basis.

5.1.1 Empirical Analysis

Where proposed short-term rental restrictions appear to be supported solely by anecdotal evidence, Realtors® should question whether empirical studies using data from police call logs, code enforcement activity, and prosecutorial records have actually established the alleged adverse impacts to the community, and the degree to which those impacts are attributable to short-term rental properties. Below are some examples of the types of inquires Realtors® can make of local government officials:

- What number of complaints logged by the local code enforcement and police departments were generated by short-term rentals? Does the data evidence an increase in the number of complaints attributable to short-term rentals over the last five years?

- How do the complaints concerning short-term rentals relate to the number of individuals occupying the short-term rental that is the subject of the complaint? Does the city or town have factual support to justify a proposed occupancy limit for short-term rental housing and to what extent does this limitation exceed the occupancy limits applicable to other types of housing?

- Does a specific type of complaint (e.g., noise disturbance, litter or trash, parking violations, or late night parties) constitute a large percentage of the total number of complaints recorded in the last five years? If so, does a provision of the local zoning or general ordinance already regulate the offending behavior? If it is possible to address the majority of the problems by enforcing existing nuisance regulations, rather than by imposing new maximum occupancy limits on short-term rentals, it may call into question the need for the proposed ordinance.

- Does a disproportionate number of complaints arise from a small number of rental properties? If yes, then a more appropriate response might be to adopt narrowly tailored regulations.
example of this approach would be a regulation that would apply only after one or more violations are found on a property, rather than imposing the cost and disruption of new regulations on all owners of short-term rental property.

5.1.2 Stakeholder Input

Realtors® should also urge that local government officials seek and consider input from individuals and organizations with a stake in the short-term rental industry as early in the process as possible. Stakeholder groups should include representatives of local homeowner associations, rental property management associations, the local Realtor® associations, the chamber of commerce, local tourism bureau, and other organizations involved in the short-term rental industry.

5.1.3 Public Process

Realtors® should actively monitor and participate in the public hearing process. Early on, Realtors® should request an invitation to participate in any stakeholder groups formed by the local government prior to the public hearing process. Local governments often allow interested parties to discuss their concerns with local officials responsible for drafting and advising the local legislative body on a proposed ordinance at the beginning of the process. To the extent possible, Realtors® should take advantage of this opportunity to meet with the local planner or other staff members who may be drafting a proposed short-term rental ordinance.

State and local open public meetings laws generally require local legislative bodies to publish notice of scheduled public hearings, typically in the local newspaper, by posted notice at city or town hall, and/or on the official website of the city or town. If a draft of the proposed short-term rental ordinance is available prior to the public hearing, Realtors® should request a copy and review it thoroughly in advance of the hearing.74 Realtors® should be prepared to submit written comments and/or to testify at the public hearing about their concerns with the proposal.

5.2 SUGGEST ALTERNATIVES TO SHORT-TERM RENTAL RESTRICTIONS

5.2.1 Enforcement of Existing Ordinances

Communities that wish to address the potential negative impacts of short-term rentals on residential neighborhoods likely already have regulations in place that are aimed at curtailing those types of impacts on a community-wide basis. In many cases the existing ordinances already address the types of behaviors and activity that would be the focus of short-term rental performance standards or operational restrictions. Below are some examples.

5.2.1.1 Noise Limits

Absent preemption by federal or state law, the control of noise is generally within the police power authority of local government. Communities commonly adopt noise control ordinances

74 The Realtor® association may obtain assistance in this effort through NAR’s Land Use Initiative program.
for the purpose of controlling unnecessary, excessive, and annoying noise within the community. In the City of San Luis Obispo, California, for example, the Noise Control Ordinance Noise Control Ordinance (Chapter 9.12 of the San Luis Obispo Municipal Code) expressly declares any noise in violation of Chapter 9.12 to be a **public nuisance**, punishable by civil or criminal action. The term “noise disturbance” is defined to mean:

any sound which (a) endangers or injures the safety or health of human beings or animals, or (b) annoys or disturbs reasonable persons of normal sensivities, or (c) endangers or injures personal or real property, or (d) violates the factors set forth in Section 9.12.060 of this chapter. Compliance with the quantitative standards as listed in this chapter shall constitute elimination of a noise disturbance.\(^75\)

Additionally, specific types of noise violations that commonly arise in residential neighborhoods are regulated under Section 9.12.050, including the following:

- Noise disturbances that are “plainly audible at a distance of fifty feet from the noisemaker, unless the noise does not penetrate beyond the boundaries of the noisemaker’s own premise.”\(^76\)

- Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device between the hours of 10:00 PM and 7:00 AM in such a manner as to create a noise disturbance audible across a property line.\(^77\)

- Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device in a manner that creates a noise disturbance at any time in excess of noise levels defined in Section 9.12.060 (measured by decibel levels and duration of the disturbance).\(^78\)

### 5.2.1.2 Public Nuisance

In general, cities and counties have the police power to declare and abate nuisances. The Boulder, Colorado nuisance abatement ordinance (Title 10, Chapter 2.5 of the Boulder Revised Code) defines a “public nuisance” to mean:

[A]ny condition or use of any parcel on or in which two or more separate violations of the Boulder Municipal Code have occurred within a twelve-month period, or three or more separate violations have occurred within a twenty-four month period, if, during each such violation, the conduct of the person committing the violation was such as to annoy residents in the vicinity of the parcel or passers-by on the public streets, sidewalks, and rights-of-way in the vicinity of the parcel.\(^79\)

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No violations or actions are designated as "public nuisance" acts. Instead, the determination whether a violation triggers the nuisance abatement process is made by the responding law enforcement agency. For instance, in some cases, a trash violation may trigger the nuisance abatement process, while in others the problem might be best handled with a municipal court summons. Legal remedies to abate public nuisances generally include the filing of a criminal complaint, or a civil action, or an administrative abatement.

5.2.1.3 Property Maintenance Standards

A property maintenance ordinance might be adopted for the purpose of maintaining, preserving, or improving a community’s inventory of residential and non-residential buildings. To accomplish this, property maintenance ordinances typically establish standards for the exterior maintenance of affected structures, including basic structural elements such as foundations and supporting columns, exterior finish surfaces, and doors and windows. Property maintenance standards may also require property owners to maintain existing trees, shrubs and other significant vegetation, and to keep all exterior areas sanitary free of trash and refuse.

5.2.1.4 Unruly Public Gathering Ordinance

Some communities, particularly college towns, such as Berkeley, CA and Tucson, AZ, have adopted “unruly gathering” ordinances that create significant sanctions for residents and property owners who host gatherings that create a substantial disturbance, as well as for party attendees who contribute to the problem. A significant advantage that an unruly gathering ordinance would have over a general noise ordinance or short-term rental ordinance is that the individual responsible for the disturbance is also penalized, rather than the tenant and/or property owner alone. Since the penalties for violating a noise ordinance generally apply only to the residents of the property where the violation occurs, a noise ordinance is unlikely to deter party guests from violating its terms.

5.2.1.5 Nighttime Curfew

To the extent that under-aged drinking and juvenile crime are a significant contributors to excessive noise and party disturbances in short-term rental properties in residential neighborhoods, a nighttime curfew ordinance that prohibits persons under the age of 18 years from being on or about public streets and public places during specified hours of the day could be an effective deterrent. The effectiveness of nighttime curfews is evidenced by a 2002 survey published by National League of Cities, in which 97% of communities that have nighttime curfew ordinances reported that they help combat juvenile crime. It bears noting, however, that a juvenile curfew ordinance generally would not be applicable to college students and other youthful offenders over the age of eighteen. To the extent that parties hosted and attended by college-aged young people are perceived as causing the disturbances that are of greatest concern, a curfew ordinance would probably have little, if any, effect.
5.2.1.6 Parking Restrictions

Communities often address the problem of improperly parked vehicles and excessive numbers of vehicles parked in residential neighborhoods through off-street parking regulations. These regulations may include provisions that prohibit vehicle parking within front yard setback areas in residential zoning districts and that restrict vehicle parking to hard surface driveways or designated parking areas. Regulations may also prohibit parking on grass areas, sidewalks, or within a certain distance of side property lines.

5.2.2 Adoption of Ordinances that Target Community-Wide Issues

Communities that have not adopted general community-wide noise regulations or the other regulations aimed at curtailing the types of behaviors and activities that would be regulated under a short-term rental ordinance, should be encouraged to adopt such general regulations rather than to single out short-term rental properties for regulation.

5.3 Short-Term Rental Housing Regulation Best Practices

This section presents several types of “best practice” provisions that have been implemented in jurisdictions which have short-term rental restrictions and which Realtors® may find acceptable, depending upon local market conditions. Each section begins with a brief description of the type of best practices. This description is followed by one or more examples of the best practice technique as adopted by local jurisdictions.

5.3.1 Narrowly-Tailored Regulations

An effective short-term rental ordinance should be narrowly tailored to address the specific needs of the local community. The potential for over-regulation is a legitimate concern, particularly when a proposed ordinance is driven by the vocal complaints of one or more permanent residents about their negative experiences with nearby short-term renters. Residents often complain that short-term rentals are inherently incompatible with residential neighborhoods and demand an outright prohibition against the use. In those circumstances, the concern is that elected officials, in an effort to please their constituency, may acquiesce to those demands without carefully considering: (a) whether there truly exists a need for short-term rental restrictions; and (b) if a need exists, what regulatory approach is best-suited to addressing the particular needs of the community.

Short-term rental restrictions can be tailored to fit the specific needs of the community in several important ways. As a threshold matter, communities should consider the degree to which short-term rentals need to be regulated. If a community’s overriding concern is that a significant number of residential properties that are being used as short-term rentals are failing to report and pay local and state transient occupancy taxes, then an ordinance requiring short-term rental owners to register their properties with the local government and penalizing noncompliance may be sufficient to address that concern. To the extent that short-term rentals are a problem only in certain residential neighborhoods, a rationally justified ordinance that applies only in those areas...
would be a more appropriate response than one that regulates the use more broadly, even in areas where short-term rentals not only are accepted, but also are highly desired.

**Best Practice Example: Clatsop County, Oregon.** In Clatsop County, the Comprehensive Plan/Zoning Map divides the county into nearly forty zoning district designations, including more than a dozen residential districts.\(^{80}\) The county’s short term vacation rental ordinance, however, applies only to properties within the Arch Cape Rural Community residential district.\(^{81}\)

### 5.3.2 “Grandfathering” Provisions

Short-term rentals that lawfully existed prior to the enactment of a short-term rental ordinance, but are not allowed under the newly adopted ordinance—either because the use is prohibited outright or because the applicant is unable to satisfy the criteria for obtaining a permit—should be allowed to continue (i.e., “grandfathered”) if the property owner is able to demonstrate that the short-term rental use pre-dated the ordinance. Zoning ordinances typically contain a general nonconformity provision that establishes the requirements for a use or structure to secure a legal nonconforming status. However, short-term rental ordinances may also contain specific grandfathering clauses that allow short-term rentals in existence on the effective date of the ordinance to continue even if the property cannot satisfy the applicable requirements.

**Best Practice Example: Kauai County, Hawaii.** Under Section 8-3.3 of the Kauai County Code, transient vacation rentals are generally prohibited in the R-1, R-2, R-4, and R-6 residential zoning districts, except within the designated Visitor Destination Areas established under the Code. However, under Sections 8-17.9 and -17.10, single-family transient vacation rentals in non-Vacation Destination Areas that were in lawful use prior to the effective date of the ordinance are allowed to continue, subject to obtaining a nonconforming use certificate. To obtain a nonconforming use certificate, an owner must provide a sworn affidavit and demonstrate to the satisfaction of the Planning Director that:

> [the] dwelling unit was being used as a vacation rental on an ongoing basis prior to the effective date of this ordinance and was in compliance with all State and County land use and planning laws . . . up to and including the time of application for a nonconforming use certificate.\(^{82}\)

The owner of operator of a transient vacation rental unit bears the burden of proof in establishing that the use is properly nonconforming based on submission of the following documentary evidence: records of occupancy and tax documents, including: State of Hawaii general excise tax and transient accommodations tax filings, federal and/or state income tax returns for the relevant time period, reservation lists, and receipts showing payment of deposits for reservations and fees for occupancy of the subject property by transient guests.\(^{83}\)

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\(^{80}\) See Clatsop County, OR Land and Water Development and Use Ordinance, Table 3.010.

\(^{81}\) See Clatsop County, OR Ordinance No. 03-13.

\(^{82}\) Kauai County Code § 8-17.10(c).

\(^{83}\) Kauai County Code § 8-17.10(e).
Best Practice Example: Monterey County, California. Monterey County’s short-term rental ordinance grandfathers short-term rental units that were in operation before the ordinance was adopted. Section 21.64.280 of the Zoning Ordinance provides:

Transient use of residential property in existence on the effective date of this Section shall, upon application, be issued an administrative permit provided that any such units devoted to transient use are registered with the Director of Planning and Building Inspection and the administrative permit application is filed within 90 days of the effective date of this Section. . . . The owner/registrant shall have the burden of demonstrating that the transient use was established. Payment of transient occupancy taxes shall be, but is not the exclusive method of demonstrating, evidence of the existence of historic transient use of residential property. 84

5.3.3 Quantitative and Operational Restrictions

Quantitative Restrictions. The use of quantitative restrictions (i.e., fixed caps, proximity restrictions, and maximum short-term to long-term occupancy ratios) as a means of mitigating the impacts of short-term rentals can be viewed in two ways. On the one hand, such limitations on the number of short-term rentals allowed in a community are preferable to an outright prohibition on the use. On the other hand, for property owners desiring to enter the short-term rental market after the effective date of a short-term rental ordinance, a quantitative restriction may act as a barrier to entry. Quantitative restrictions therefore may constitute a reasonable compromise position in circumstances where community support is divided on a proposed short-term rental ban.

Jurisdictions considering a quantitative restriction should carefully consider which technique is best suited to further the needs and goals of the community. For example, if a community finds that the negative impacts of short-term rentals are manifested only when they exist in clusters or in close proximity to one another in a residential neighborhood, then a proximity restriction would be a more effective technique than a fixed cap or ratio. On the other hand for a community seeking to maintain a balance between its long-term housing needs and visitor-oriented accommodations, a maximum ratio of long term residential dwelling units to short-term rental permits would be more effective than a fixed cap or proximity restriction.

Best Practice Example: Mendocino County, California. Section 20.748.005 of the Mendocino County Code states that the county’s “single unit rentals and vacation rentals” ordinance is intended, in part, “to restore and maintain a balance between the long-term housing needs of the community and visitor oriented uses.” To maintain that balance, the ordinance requires the county to “maintain, at all times, for new vacation home rentals or single unit rentals approved after the effective date of this ordinance, a ratio of thirteen (13) long term residential dwelling units to one (1) single unit rental or vacation home rental.”85 While the ordinance does not require any reduction in the number of single unit rentals and vacation rentals in existence on the effective date of the ordinance, no new applications may be approved unless and until

84 Monterey County, CA Zoning Ordinance § 21.64.280(d)(1)(b).
85 Mendocino County, CA Code § 20.748.020(A).
thirteen new residential dwelling units have been completed since the single unit rental or vacation home rental permit was approved.  

**Best Practice Example: San Luis Obispo County, California.** The vacation rental ordinance adopted by San Luis Obispo County was adopted for the general purpose of ensuring that short-term rental uses “will be compatible with surrounding residential uses and will not act to harm and alter the neighborhoods they are located within.” More specifically, the county found that “residential vacation rentals have the potential to be incompatible with surrounding residential uses, especially when several are concentrated in the same area, thereby having the potential for a deleterious effect on the adjacent full time residents.” Accordingly, rather than prohibiting vacation rentals in county neighborhoods, San Luis Obispo County adopted the following proximity restriction on the use:

[N]o residential vacation rental shall be located within 200 linear feet of a parcel on the same block on which is located any residential vacation rental or other type of visitor-serving accommodation that is outside of the Commercial land use category.

**Operational Restrictions.** Although short-term rental restrictions commonly include some operational restrictions, the restrictions often unnecessarily duplicate generally applicable regulations already adopted by the local jurisdiction. Several of these types of regulations are discussed in Section 5.2 above. In general, the types of negative impacts most commonly cited by communities with short-term rental restrictions—late-night music and partying, garbage left out on the street on non-pickup days, illegal parking, and negligent property maintenance—are community-wide concerns that are best regulated with a generally applicable ordinance rather than one that singles out short-term rentals for disparate treatment. It stands to reason that the impacts that these types of activities have on residential neighborhoods are the same regardless of whether they are produced by long-term residents or short-term renters. Therefore, the best practice technique for addressing those concerns is to adopt a general ordinance that governs the activity or behavior in all areas of the community.

**5.3.4 Licensing/Registration Requirements**

Virtually all short-term rental ordinances require owners who intend to offer their property for use as a short-term rental to obtain a license or permit prior to commencing the use. In general, licensing and registration requirements enable local governments to create and maintain a database of dwelling units being operated as short-term rentals for code enforcement and transient occupancy tax collection in jurisdictions authorized to collect such taxes. The procedures and criteria for obtaining a short-term rental license or permit should be clearly set out in the local ordinance. Short-term rental licensing and registration applications should be processed administratively and without need for a public hearing. Such licensing/registration requirements should not require a conditional use permit or a similar-type zoning permit.

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86 See Mendocino County, CA Code § 20.748.020(A)-(B).
87 San Luis Obispo County, CA Code § 23.08.165(a).
88 Id.
89 San Luis Obispo County, CA Code § 23.08.165(c).
Best Practice Example: City of Palm Springs, California. In the City of Palm Springs, residential property owners are required to register the property as a vacation rental prior to commencing the use. Section 5.25.060 of the Palm Springs Municipal Code requires owners to submit a registration form that is furnished by the city and that requires certain information to be provided, including, for example: (a) the name, address, and telephone number of the owner and his agent, if any; (2) the address of the vacation rental unit; (3) the number of bedrooms in the rental unit; and (4) evidence of a valid business license issued for the business of operating vacation rentals, or submission of a certificate that owner is exempt or otherwise not covered by the city’s Business Tax Ordinance for such activity. Vacation rental registration also requires the owner to pay a fee in an amount to be established by the city council, subject to the limitation that the registration fee “shall be no greater than necessary to defer the cost incurred by the city in administering the [vacation rental registration].”

Best Practice Example: City of Encinitas, California. In the City of Encinitas, short-term rental permits likewise require submittal of an application form and payment of a fee no greater than necessary to defer the cost incurred by the city in administering the short-term rental permit program. Short-term rental permits will be granted “unless the applicant does not meet the conditions and requirements of the permit, or fails to demonstrate the ability to comply with the Encinitas Municipal Code or other applicable law.”

5.3.5 Inspection Requirements

As noted in Section 3.1.3, many communities require short-term rental properties to pass certain inspections prior to the issuance or renewal of a short-term rental permit. However, mandatory inspection requirements arguably do not advance a community’s interests in protecting and maintaining residential character or preventing the adverse effects of transient occupancy on residential neighborhoods. Therefore, if a short-term rental ordinance is specifically adopted for reasons related to protection of residential character, then a mandatory inspection requirement is unnecessary and should not be imposed upon rental property owners.

Best Practice Examples: Douglas County, Nevada; City of Palm Springs, California; and Sonoma County, California. The short-term rental ordinances adopted by these communities were generally adopted for reasons related to the impacts of short-term rental uses on residential neighborhoods. However, none of these ordinances include a mandatory inspection requirement, either at the time of initial permit issuance or thereafter.

Mandatory inspection requirements may be justified in cases where a short-term rental ordinance is adopted for the purpose (at least in part) of ensuring the safety of short-term rental tenants. For example, one of the stated purposes of the transient private home rental ordinance adopted by the City of Big Bear Lake, California is “to ensure . . . that minimum health and safety standards are maintained in such units to protect the visitor from unsafe or unsanitary conditions.” It stands to reason that a provision requiring inspection of transient private rental

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90 City of Palm Springs, CA Municipal Code § 5.25.060(b).
92 City of Bear Lake, CA Municipal Code § 17.03.310(A).
homes in Big Bear Lake to determine compliance with such minimum health and safety standards would further that purpose.

However, even if a mandatory inspection requirement can be justified, the scope of the inspection program should be limited to the initial permit issuance and thereafter only on a reasonable periodic basis. Provisions requiring short-term rental units to be inspected annually (typically as a condition precedent to the issuance of a permit renewal), such as Section 17.03.310(D)(2) of the Big Bear Lake ordinance, are unnecessarily burdensome on owners and the local government alike.

**Best Practice Example: City of Cannon Beach, Oregon.** The short-term rental ordinance adopted by the City of Cannon Beach provides an example of a more reasonable periodic inspection requirement. Under Section 17.77.040(A)(2) of the Cannon Beach Zoning Code, at the time of application for a new transient rental permit (or new vacation home rental permit) the dwelling is subject to inspection by a local building official to determine conformance with the requirements of the Uniform Housing Code. Thereafter, twenty percent of the dwellings that have a transient rental or vacation home rental permit are inspected each year, so that over a five-year period, all such dwellings have been re-inspected.  

5.3.6 **Enforcement Provisions**

When short-term rental restrictions are adopted pursuant to a local government’s zoning authority and incorporated into the jurisdiction’s zoning code, it is reasonable to expect the ordinance to be enforced in accordance with the generally applicable enforcement provisions of the zoning code, if one exists. Similarly, it is reasonable to expect that short-term rental registration and licensing provisions that are incorporated into a community’s general (non-zoning) code to be enforced pursuant to the generally applicable code enforcement provision. The short term rental regulations adopted in Tillamook County and Clatsop County, Oregon and Monterey County, California, for example, are enforced in accordance with generally applicable enforcement and penalty provisions.

It is not uncommon, however, for communities to enact special enforcement and penalty provisions in their short-term rental ordinances. Many short-term rental ordinances contain enforcement and penalty provisions that penalize violations more severely than other types of code violations. In Palm Springs, California, for example, a first violation of the Vacation Rental Ordinance is subject to a $250 fine and subsequent violations are subject to a fine of $500. By contrast, under Section 1.06.030 of the Palm Springs Municipal Code, the general penalties for code violations are $100 for the first administrative citation and $250 for the second. The Vacation Rental Ordinance does not explain why violations of that ordinance are penalized more severely than other types of code violations.

Enforcement provisions should not penalize short-term rental property owners (or their agents) for violations beyond their control. For example, if a short-term rental tenant violates a noise level restriction, the property owner should not be held responsible for the violation.

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93 See City of Cannon Beach, OR Zoning Code § 17.77.040(2)(a).
94 See City of Palm Springs, CA Municipal Code § 5.25.090(a).
**Best Practice Example: Douglas County, Nevada.** Chapter 5.40 of the Douglas County Code regulates vacation home rentals in the Tahoe Township. Although the vacation home rental ordinance imposes certain operational restrictions on permitted rental units (e.g., parking and occupancy limitations and trash/refuse container rules), Section 5.40.110 states that a permit may be suspended or revoked only for a violation committed by the owner.

### 5.41.110 Violation and administrative penalties.

A. The following conduct is a violation for which the permit [sic] suspended or revoked:

1. The owner has failed to comply with the standard conditions specified in section 5.40.090(A) of this code; or
2. The owner has failed to comply with additional conditions imposed pursuant to the provisions of section 5.40.090(B) and (C) of this code; or
3. The owner has violated the provisions of this chapter; or
4. The owner has failed to collect or remit to the county the transient occupancy and lodging taxes as required by Title 3 of this code.
5. Any false or misleading information supplied in the application process.

Prior to the imposition of fines or other penalties, a short-term rental ordinance should conform to the due process requirements established under state law and/or the local jurisdictions charter or code of ordinances. At a minimum, before fines or other penalties are imposed, property owners should be given notice of, and an opportunity to cure, any alleged violation, except where exigent public safety concerns exist. As demonstrated in the best practice examples below, property owners should be given the opportunity to request a public hearing and have the right to appeal a local government’s decision to suspend or revoke a short-term rental permit.

**Best Practice Example: City of Encinitas, California.** Under Section 9.38.060 of the City of Encinitas short-term rental ordinance, penalties may be imposed and permits may be suspended only in accordance with the following provisions:

A. The City Manager shall cause an investigation to be conducted whenever there is reason to believe that a property owner has failed to comply with the provisions of this Chapter. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the investigator shall issue written notice of the violation and intention to impose a penalty, or penalty and suspend the permit. The written notice shall be served on the property owner and operator or agent and shall specify the facts which in the opinion of the investigator, constitute substantial evidence to establish grounds for imposition of the penalties, or penalties and suspension, and specify that the penalties will be imposed and/or that the permit will be suspended and penalties imposed within 15 days from the date the notice is given unless the owner and/or operator files with the city clerk the fine amount and a request for a hearing before the City Manager.

B. If the owner requests a hearing within the time specified in subsection (A), the City Clerk shall serve written notice on the owner and operator, by mail, of the date, time and place for the hearing which shall be scheduled not less than 15 days, nor more
than 45 days of receipt of request for a hearing. The City Manager or his or her
designee shall preside over the hearing. The City Manager or his or her designee
shall impose the penalties, or penalties and suspend the permit only upon a finding
that a violation has been proven by a preponderance of the evidence, and that the
penalty, or penalty and suspension are consistent with this Chapter. The hearing
shall be conducted according to the rules normally applicable to administrative
hearings. A decision shall be rendered within 30 days of the hearing and the
decision shall be appealable to the City Council if filed with the City Clerk no later
than 15 days thereafter, pursuant to Chapter 1.12. 95

**Best Practice Example: City of Cannon Beach, Oregon.** Section 17.77.050(B) of the Cannon
Beach Zoning Code provides another example of the notice and public hearing process afforded
to short-term rental property owners prior to the imposition of fines or the revocation of a permit.

5. The city shall provide the permit holder with a written notice of any violation of
subsection (A)(4) of this section that has occurred. If applicable, a copy of the
warning notice shall be sent to the local representative.

6. Pursuant to subsections (B)(4)(b) through (d) of this section, the city shall provide
the permit holder with a written notice of the permit suspension and the reason for
that suspension. The permit holder may appeal the suspension to the city council by
filing a letter of appeal with the city manager within twenty days after the date of
the mailing of the city manager’s order to suspend the permit. The city manager’s
suspension shall be stayed until the appeal has been determined by the city council.
The city council shall conduct a hearing on the appeal within sixty days of the date
of the filing of the letter of appeal. At the appeal, the permit holder may present
such evidence as may be relevant. At the conclusion of the hearing, based on the
evidence it has received, the council may uphold, modify, or overturn the decision
of the city manager to suspend the permit based on the evidence it received.

7. Pursuant to subsection (B)(4)(e) of this section, the city shall provide the permit
holder with a written notice that it intends to revoke the permit and the reasons for
the revocation. The city council shall hold a hearing on the proposed revocation of
the permit. At the hearing, the permit holder may present such evidence as may be
relevant. At the conclusion of the hearing, based on the evidence it has received, the
council may determine not to revoke the permit, attach conditions to the permit, or
revoke the permit.

8. A person who has had a transient rental occupancy permit or a vacation home rental
permit revoked shall not be permitted to apply for either type of permit at a later
date. 96

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96 City of Cannon Beach, OR Zoning Code § 17.77.050(B)
GLOSSARY OF TERMS

Common law: Law developed by judges through decisions of courts and similar tribunals rather than through legislation (statutes) or executive actions.

Due Process: The constitutional protections given to persons to ensure that laws are not unreasonable, arbitrary, or capricious. When such laws affect individuals’ lives, liberty, and property, due process requires that they have sufficient notice and opportunity to be heard in an orderly proceeding suited to the nature of the matter at issue, whether a court of law or a zoning board of appeals. Essentially, due process means fairness.

Equal Protection: The right of all persons under like circumstance to enjoy equal protection and security in their life, their liberty, and their property and to bear no greater burdens than are imposed on others under like circumstances.

Nonconforming Use: A use that lawfully existed prior to the enactment of a zoning ordinance, and that is maintained after the effective date of the ordinance, although it does not comply with the zoning restrictions applicable to the district in which it is situated, is commonly referred to as a “nonconforming use.”

Police Power: The power that resides in each state to establish laws to preserve public order and tranquility and to promote the public health, safety, morals, and other aspects of the general welfare.

Preemption: A doctrine based on the Supremacy Clause of the U.S. Constitution that holds that certain matters are of such national, as opposed to local, character that federal laws preempt or take precedence over state laws on such matters. As such, a state may not pass a law inconsistent with the federal law. The doctrine of state law preemption holds that a state law displaces a local law or regulation that is in the same field and is in conflict or inconsistent with the state law.

Public Nuisance: At common law “public nuisance” generally consists of “an unreasonable interference with a right common to the general public, including activities injurious to the health, safety, morals or comfort of the public.”

Zoning Enabling Statute: State legislation “authorizing local governments to engage in planning and the regulation of activity on private land.”

97 PATRICIA E. SALKIN, AMERICAN LAW OF ZONING § 12:1 (5th ed. 2010).
98 Article VI, Section 2, of the U.S. Constitution, commonly referred to as the “Supremacy Clause,” provides that the “Constitution, and the Laws of the United States … shall be the supreme Law of the Land.”
99 ZONING AND LAND USE CONTROLS § 16.02[2].
Whatcom County Council
Special Surface Water Work Session

June 24, 2014

CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 10:30 a.m. in the Civic Center Garden Level Conference Room, 322 Commercial Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Sam Crawford, Rud Browne, Barry Buchanan, Ken Mann, Pete Kremen and Carl Weimer

Absent: None

SURFACE WATER WORK SESSION (AB2014-024)

1. WATERSHED PLANNING UPDATE

Gary Stoyka, Public Works, gave an update on the Watershed Planning Unit and Joint Board processes.

Planning Unit

Stoyka stated the Planning Unit met on May 28. During that meeting, the Planning Unit signed the process and procedure agreement. The changes clarified decision-making processes related to statutory requirements, watershed management plan adoption, and the instream flow recommendation. For all other decisions, the Planning Unit changed its approval process to a simple majority.

The Planning Unit is also working on its work plan and a budget. They agreed on the general work plan, but have not yet agreed on specifics. When the work plan is done, the Planning Unit will develop a budget.

Joint Board

The last meeting of the Joint Board was May 29. The Joint Board declined to amend the structure and function document of the Planning Unit to allow a County councilmember to represent the County on the Planning Unit instead of the staff. The Board’s rationale was that it would be inconsistent with the spirit of the Watershed Planning Act. Technically qualified staff are supposed to represent the governments. There was also concern from other entities that the Planning Unit would become more political than technical.

The Joint Board also discussed and declined proposed changes to the operating procedures to designate a quorum of the Joint Board and Joint Board approval by three members instead of five members. The attendance of one member has been sporadic. A
recent audit determined that all five members must approve a decision, so there can't be a meeting unless all five members attend.

The Joint Board received the updated Planning Unit work plan and budget. The Board also considered a management team recommendation to approve the 2014-2016 Puget Sound Action Agenda Local Update by the Puget Sound Partnership. They've worked on the update for the past year.

Kremen stated he's concerned about the Joint Board quorum issue and with the County putting time, staff, and financial resources into a process and preparing for meetings that may not take place. He's concerned that one of the initiating governments has not been participating. He asked why the Joint Board continues to not accomplish anything because of the one agency that doesn't participate. It's a waste of everyone's time and money.

Weimer stated the Nooksack Tribe has had a hard time showing up at the meetings, but the Chairman has designated a representative and they've said they plan to be at the meetings from now on. County Executive Jack Louws made it clear that there's no reason to meet if people don't show up, and the Joint Board should end if that situation continues. It was discussed clearly with the people who were in the room.

Crawford stated there is inherent conflict of interest by the Lummi Tribe and Nooksack Tribe because their petition for adjudication is counter to this process.

Brenner asked for a copy of Mr. Stoyka’s notes.

Mann asked if any of the other initiating governments have a weak attendance record at the Joint Board. Stoyka stated all the other governments have consistently attended.

The Joint Board also approved $12,000 to complete the data integration project to consolidate all the flow and habitat data. The consultants said the data documentation is in bad shape. Staff agreed.

Brenner stated funding decisions are supposed to first go to the County Council for review and approval before going to the Joint Board. Stop making funding decisions until the Council has the Executive’s response.

Stoyka stated the Joint Board received a status update of the:
- Lower Nooksack Strategy, which the Council will receive later in this meeting
- Ground water modeling project, for which they are scheduling consulting team interviews.
- Joint Board’s annual outreach event that includes a water banking seminar in September.

2. COORDINATED WATER SYSTEM PLAN UPDATE

Stoyka stated the Coordinated Water System Plan is included in the budget for this year. They are in the process of preparing an initial scoping contract with RH2 Engineering, the selected consultant. Until they determine the scope, it would be difficult to do a cost
estimate. There was a meeting in June on the scope of the update with agency
representatives and major water purveyors. They will use that information to develop the
main contract for the Coordinated Water System Plan. He prepared a resolution for the
Council to adopt at its July 8 meeting. It is a call to convene the Water Utility Coordinating
Committee to shepherd the Coordinated Water System Plan update process. The resolution
will include the scope of the update and designate a Council representative on the Water
Utility Coordinating Committee. The first meeting of the Water Utility Coordinating
Committee will be in August. The process will take about a year.

Weimer asked if the funding for the Coordinated Water System Plan comes from the
money designated for the Joint Board or from other sources. Stoyka stated it comes from
Flood Control Zone District funds.

3. STATUS UPDATE ON IMPLEMENTATION OF THE NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES) PHASE II STORMWATER
PERMIT

Gary Stoyka, Public Works Department, stated staff will bring forward requested
budget information to the Council at the July surface water work session. Today they will
summarize the permit update.

Cathy Craver, Public Works Department, submitted and read from a presentation on
the NPDES Phase II Permit (on file). The new permit requirements began August 2013. It
includes significant changes over the next few years.

Browne asked how to proactively provide information on the 2014 Stormwater
Management Program to people in addition to putting information on the County website.
Craver stated they host outreach events in Birch Bay and Lake Whatcom. They plan to host
workshops on private stormwater facility maintenance. They will contact people through
mailers, announce events on the NPDES website, and provide updates at various community
meetings. They work through existing programs and contacts.

Browne asked if staff provide information to land disturbance permit applicants.
Craver stated the Planning Department provides background and resource information a
person needs regarding a land disturbance permit.

Browne stated they want to contact someone at the point where there is a direct
relationship to their activities. Consider whether there are other ways to reach people
through their decision-making processes.

Brenner stated have a simple generic pamphlet to give to people. Craver stated
municipalities engaged in a lot of public review when the new permit was issued. At the
same time, they moved forward with Lake Whatcom development regulations. There was
outreach and workshops for groups such as the Building Industry Association (BIA). They
can look at other ways to provide information.

She continued the presentation with the 2013 highlighted accomplishments, which
include outreach efforts, the Lake Whatcom overlay district, and stormwater facility
maintenance. New permit requirements include the Birch Bay urban growth area, increased
monitoring, increased inspection of stormwater facilities, low impact development, and the Lake Whatcom total maximum daily load (TMDL) permit.

Crawford asked about the 2,700 catch basins. He asked how catch basins are maintained right now. Craver stated sometimes maintenance is complaint-driven. Maintenance and Operations (M&O) has a maintenance schedule for different areas. The permit requires a strict documentation process for every catch basin inspection.

Browne asked what material is captured in the catch basins. Craver stated the catch basins capture anything that washes into the system. It isn’t treatment, but it is effective in capturing pollutants.

Kremen asked when the County first started installing catch basins and if there is information that catch basins are effective.

Kirk Christensen, Public Works Department, stated they started installing catch basins 50 years ago.

Craver stated the catch basins are effective, but infrastructure ages. They need to inventory the status of the catch basins and find home owner-installed catch basins. They must figure out which basins need to be replaced or repaired and which are fine.

Kremen stated catch basin effectiveness depends on how well they’re maintained. Craver stated they will identify that information through the documentation process.

Stoyka stated all have been mapped.

Mann stated catch basin designs have evolved to collect more pollutants. He asked why it takes six months to repair a catch basin when they identify a needed repair. Craver stated the six month standard is a permit requirement and a problem for some small jurisdictions. If it will take longer than six months, they need to explain why. With 2,700 catch basins, many factors affect how long it would take to do repairs.

Buchanan asked if different catch basins have different maintenance requirements. Craver stated all catch basins are inspected for structural integrity, amount of sediment, and other generic factors. They will review any unusual designs on a case-by-case basis.

Crawford asked how long it takes to inspect and maintain a catch basin and how many they can do in a day. Christensen stated it depends on the location and the amount of traffic. They could do two or three in an hour under the best conditions.

Craver continued the presentation on inspection and replacement for development. They must implement annual inspections of stormwater treatment and flow control facilities for all new development by December 2016. Maintenance will be required if inspection shows they exceeds standards set by the 2012 Ecology Stormwater Management Manual for Western Washington.

Crawford asked if there will be a tracking program for all new construction. Craver stated there will be if it was built after 2016. There isn’t a requirement for inspections of development occurring before 2016, but jurisdictions must provide education and outreach.
so people can maintain their systems. The County currently does that outreach and education. The County knows where those systems are. The details of the inspection program haven’t yet been developed. All the jurisdictions are working on programs that are amenable to the community and manageable for the jurisdictions.

Crawford asked if they are doing that in phase 1 in other jurisdictions. Craver stated they are. Some jurisdictions allow the homeowner to provide information to the county, and other jurisdictions require and provide inspections for free or for a fee. There will be phase 1 examples to consider. This is all based on what gets permitted. The regulations will be set up through the Planning Department.

Browne asked the logic of not going back in time and inspecting the older catch basins and systems. Craver stated the Department of Ecology can’t create requirements and enforcement mechanisms that go back in time. Instead, get those residences as much information as possible to encourage and empower the owners to maintain the facilities.

Browne asked if the County would lose its permit. Craver stated it would not. There is the potential for an Environmental Protection Agency (EPA) auditor to levy fines for not complying.

Stoyka stated King County was fined this past year because they were not adequately completing all their permit requirements and not keeping adequate records.

Kremen asked if there were sanctions against King County. Craver stated she doesn’t know specifically, but it may happen.

She continued the presentation regarding field assessment monitoring. The permit also requires regional monitoring of water quality improvements. Either the County or Ecology can monitor the regional locations. Whatcom County opted to have the State do the monitoring. She will bring forward information on the regional monitoring areas when she receives it.

She concluded the presentation and stated the last major new requirement is incorporation of low impact development in the County codes and regulations. The administration and Council will schedule action.

Crawford asked that councilmembers watch a 2009 Frontline documentary called *Poisoned Waters*. It is informative about the bigger picture from the federal level about what is going on in Puget Sound. The documentary shows evidence of egregious stormwater pollution into Puget Sound. The City of Bellingham diversion into Lake Whatcom provides a large amount of phosphorous loading, but Ecology decided to not count it as part of the phosphorous loading. There are polluters that are bigger than the pollution from residential development. It’s backwards to ignore a constant enormous polluting source and put a disproportionate amount of expense on all the little sources, including private homeowners. Craver stated she can address the County’s jurisdiction and issues. Regional problems are discussed in a regional forum.

Crawford stated he hopes the most obvious stormwater pollution contributors are addressed. It’s good in the long run. Don’t exempt any problems, or there will be disparity.
Christensen stated private businesses and industries have their own NPDES permit, under which many of these problems can be covered.

Kremen stated thousands of homes have antiquated systems that create many contaminants and pollutants that go into Bellingham Bay. It would be more effective to address those sources of contaminants than to go after the development that hasn’t yet been built. It’s disproportionate and ineffective. The amount of pollutants they’re preventing from new development is infinitesimal compared to old sources that have been spewing contaminants for decades.

Craver stated there is a limited amount of enforcement that Ecology and the County can do on past development. It’s easier to look into the future and create stricter requirements. There are also regulations in place and enforcement for any property producing pollutants that flow into the County system. That won’t necessarily retrofit the development, but it may. It would take a great legislative effort to do that.

Crawford thanked Ms. Craver for a great presentation.

Browne stated the education and enforcement issues are similar to those issues regarding septic systems. Find a way to develop and coordinate the two efforts.

4. STATUS OF LOWER NOOKSACK STRATEGY

Gary Stoyka, Public Works Department, submitted and read from a presentation (on file) on the Lower Nooksack Strategy, the watershed planning and implementation chronology, and development and framework of the strategy.

Mann asked what a transparent, accountable, and scalable market process for furthering resource-based economic activity and growth is.

Henry Bierlink stated it is Planning Department’s ag watershed project for a natural resource marketplace. It includes water banking, land use banking, and ecosystem services banking.

Crawford stated the language should indicate that the court-approved settlement with the tribes regarding water rights will include beneficial outcomes for all parties. Stoyka stated this was before the tribes made a request for a federal settlement. Their goals are listed in the second desired outcome from the strategy.

He continued the presentation on the 2010 strategy framework from the Joint Board; financial strategy and task management; summary of objectives; associated cost estimates and actual expenditures; and the tasks, status, and challenges of each of the five objectives.

Brenner asked what’s been done on objective five regarding the natural resources marketplace.

Mark Personius, Planning and Development Services Department, stated they are using grant money to look at the North Lynden Bertrand Creek and Fishtrap Creek
watersheds and to monitor and track improvements that can be made to watershed activities or agricultural practices. He hopes to bring forward two pilot projects this fall.

Stoyka concluded the presentation on the summary of the objectives and Joint Board decisions.

Weimer asked if the two tribes are interested in negotiating now that the Joint Board approved all those goals. Stoyka stated they aren’t regarding instream flows, but they may on other objectives.

Weimer stated they will need to remove objective one regarding instream flow settlement from the plan. Stoyka stated that’s correct.

Crawford asked if there is a way to bring the tribes to the table. They are in charge of instream flow and monitoring. He asked if they can get the tribes to commit to this strategy. Stoyka stated the tribes provided funding for the data integration project. The Nooksack Tribe has outside funding for some monitoring in addition to the County’s monitoring. The Joint Board fund is made up entirely of funds that came from the County.

Crawford stated they should communicate with the tribes as they update the plan. It would be meaningful to the community if the tribes participated in this effort, including financial participation.

Weimer stated the Lummi Tribe does a lot of independent monitoring. Stoyka stated the expenditures that he listed didn’t include in-kind contributions from the tribes. There are in-kind contributions. In terms of funding these activities, there are tribal contributions to efforts.

Crawford stated they can indicate the value of the tribal contributions and the source of tribal funding.

Mann asked if there is a process to measure how much water they need. Stoyka stated quantifying need is the main goal of objective three. The Coordinated Water System Plan update will forecast water needs for public water systems. The next step would be to look at other non-public water system needs, including agriculture, exempt wells, and industrial uses.

Kremen stated the tribes are more successful at securing federal funding. There are mixed messages of the tribal request for adjudication and the ongoing joint effort to resolve the issues. He hopes they can request funding jointly. It’s time now to work together. The initiating governments should pursue federal funding together to improve their chances to secure federal funding.

**ADJOURN**

The meeting adjourned at 12:25 p.m.

The Council approved these minutes on _________________, 2014.
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.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk
Carl Weimer, Council Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL  
Regular County Council  

July 8, 2014  

CALL TO ORDER  

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

ROLL CALL  

Present: Barbara Brenner, Ken Mann, Sam Crawford, Rud Browne, Barry Buchanan, Carl Weimer, and Pete Kremen  

Absent: None  

FLAG SALUTE  

ANNOUNCEMENTS  (7:02:50 PM)  

Jack Louws, County Executive, announced that the National Association of County and City Officials (NACO) named the Whatcom County Health Department the local Health Department of the year in the category of medium sized counties with a population between 50,000 and 499,000. They were awarded the honor due to the department’s work to end homelessness through a commitment of funding and an expansion of the veteran’s program. He complimented the Council for establishing the Veteran’s Assistance Program in 2011. The work has been rewarding. Since 2008, they reduced veteran homelessness by 65 percent. At this time, only three veterans remain unhoused.  

Anne Deacon, Health Department, described the original request for the Veteran’s Assistance Program to leverage local dollars and receive grant funds to accomplish this work. Significant community partners help to house local heroes and provide support services to make sure they remain housed. The community is fortunate to have such a committed group of professionals. They are honored by the award.  

Louws stated the work of the Health Department is not done. The department will make a presentation on the proposal for a mental health court in two weeks. Several departments and jurisdictions have worked on this effort for months. He’s proud of the work by the Health Department and all the County staff to improve the lives of the people in Whatcom County.  

Weimer thanked the Health Department staff for doing such a good job and for the national recognition.  

Kremen stated he commends the staff and all responsible for achieving this important and impressive accomplishment, particularly Liz Harmon-Craig. Deacon stated
Ms. Harmon-Craig and Gail de Hoog both worked on this program. Ms. Harmon-Craig is a bronze star recipient and a combat veteran.

Weimer announced an emergency ferry outage starting at 10:00 p.m. this evening.

MINUTES CONSENT

(7:10:51 PM)

Brenner moved to approve the Minutes Consent items.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

1. REGULAR COUNTY COUNCIL FOR MAY 20, 2014
2. COMMITTEE OF THE WHOLE FOR JUNE 3, 2014
3. REGULAR COUNTY COUNCIL FOR JUNE 3, 2014
4. COMMITTEE OF THE WHOLE FOR JUNE 17, 2014
5. REGULAR COUNTY COUNCIL FOR JUNE 17, 2014

SPECIAL PRESENTATION

1. BEHAVIORAL REVENUE ADVISORY COMMITTEE 2013 ANNUAL AND 2014 SECOND QUARTER REPORTS (AB2014-244) (7:11:17 PM)

Anne Deacon, Health Department, reported that they collected over $3.6 million and expended $3.4 million in 2013. Over $3.1 million were used for programs and services. They affect the lives of 8,451 county residents. The report will be posted on the Health Department website.

In 2013, they increased specialized housing programs and began using a team approach to deliver behavioral health services in the jail, for which they received national accolades. The goal is to reduce the length of jail stays and improve connection to treatment upon release. They increased behavioral services in seven school districts. The District Court Probation behavioral health unit realized increases in probation completion. They continue to leverage funds to bring in more funds from other places. The vision is to develop a comprehensive infrastructure of behavioral health care.

For the second quarter of 2014, they provided: crisis intervention team training; crisis hostage negotiation training to Sheriff’s deputies; training on working successfully with recently-returning veterans and individuals experiencing mental illness to all law enforcement jurisdictions, including border patrol, immigration, and local emergency medical services (EMS) personnel; motivational interview training to local social service and
treatment providers; consultation services to District Court Probation; de-escalation training to social service providers; and ongoing mental illness awareness education and training to service providers. In addition, they recently sent the local mental health court team to the national conference on specialty courts. The people in these professions are not paid their true worth. Providing free training, ongoing support, and technical assistance offsets costs and improves their skills and knowledge when working with the most vulnerable citizens.

Mann asked the fund balance. Deacon stated the current fund balance at the end of 2013 was about $5.4 million. Of that balance, $3 million is dedicated to the triage facility, which is probably not enough. They also have $2.4 million for startup programs. They also over-budgeted in 2014 by about $600,000 to draw down some of that balance. They purposely built up the balance, and are now using it to increase some of the programs. The Affordable Care Act implementation has been difficult. Some money was budgeted for services, but was returned.

Brenner stated everything they’re doing is good. She asked when the Behavioral Health Advisory Committee will be part of the revenue recommendation. The advisory committee includes every part of the community. She appreciates the work of the revenue advisory committee, but they participate because of their profession rather than their connection to the issue. Recommendations should go to the advisory committee. Deacon stated the Behavioral Health Revenue Advisory Committee was set by ordinance to just oversee the fund. It meets less frequently as the priorities are set. The Behavior Health Advisory Board is the broader, more diverse board, and it sets the priorities of needs, programs, and services. They start the advice process. The two have separate purposes.

Brenner stated it’s important that funding issues go to the Advisory Board before coming to the Council. Deacon stated they try to do that. A representative of the Advisory Board also sits on the Revenue Advisory Committee to ensure that the wishes of the Advisory Board are heard. Everything has gone to the Advisory Board before coming to the Council.

Kremen stated he thanks Ms. Deacon for the presentation. The pursuit of a mental health court has a lot of merit. He asked if the mental health court team learned about the Cook County mental health court. Deacon stated Cook County was not represented this year. The national center oversaw several programs, including one in Idaho. They know the components necessary for a successful mental health court. She will present more information in two weeks. An effective court saves $7.50 for every dollar spent.

Kremen stated a mental health court costs a lot to implement and operate. Any sizeable fund balance will be used to run the court. He’s glad for the fund balance.

Browne asked how the Sheriff’s Office triages offenders with identified mental health problems. Deacon stated that if the offender doesn’t need to be arrested, the deputies have diversion options, including the existing triage facility. Sometimes the officers can avert an arrest altogether. A deputy may decide to take the person to the emergency room for evaluation and treatment as opposed to jail, if there isn’t a reason for an arrest. At this point, it’s all voluntary. In Washington State, there has to be a pickup order from a designated mental health professional for law enforcement to pick someone up against their will.
Browne asked how the process changes with the mental health court. Deacon stated that the process doesn’t change. Revised Code of Washington (RCW) 71.05 is clear about involuntary treatment. In a voluntary situation, a mental health court might help if this person is involved in the criminal justice system. There is a specific protocol for allowing a person to go through the mental health court rather than the regular court. She will talk more about it in two weeks.

Brenner stated the recidivism rate for drug court is much less than regular court. That’s where the savings come from. They get better outcomes.

PUBLIC HEARINGS

1. ORDINANCE GRANTING ASTOUND BROADBAND, LLC, A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES AND OTHER SERVICES (AB2013-331) (7:32:25 PM)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Crawford moved to adopt the ordinance.

Browne asked who is responsible for any damage done by the County to a line or cable that the franchisee installed.

Andrew Hester, Public Works Department, stated the franchisee is required to keep the area clear. If the area is not clear, it may be the franchisee’s responsibility. If it is clear, it may be the County’s responsibility.

Browne asked if the amount is more than customary and how the amount is established. Hester stated this is different from a cable television franchise, which has federal limits on how much gross revenue they can receive. With this franchise, only cities have the authority to request a franchise fee. Through negotiations, the County was able to get what a city would typically get, which is six percent as defined in the Revised Code of Washington (RCW).

Browne stated make sure the County receives revenue if it assumes any liability for damage.

Crawford asked how much six percent is. Hester stated he will find out and provide that information.

Crawford asked about the Comcast franchise. Hester stated the County is allowed to ask for up to five percent from Comcast. That franchise is being negotiated right now. It is set to expire next year.

Browne stated he appreciates anyone who will extend broadband coverage in Whatcom County.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
2. ORDINANCE GRANTING PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY, A WASHINGTON MUNICIPAL CORPORATION, A FRANCHISE AND THE RIGHT, PRIVILEGE, AND AUTHORITY THEREUNDER TO LOCATE, SET, ERECT, LAY, CONSTRUCT, EXTEND, SUPPORT, ATTACH, CONNECT, MAINTAIN, REPAIR, REPLACE, ENLARGE, OPERATE AND USE FACILITIES IN, UPON, OVER, UNDER, ALONG, ACROSS AND THROUGH THE FRANCHISE AREA TO ALLOW FOR THE PROVISION OF WATER SERVICES (AB2014-180) (7:37:49 PM)

Andrew Hester, Public Works Department, gave a staff report and stated this is a new franchise that will replace three existing franchises. The franchise covers the County’s entire right-of-way area, similar to other utility services.

Weimer asked if there is another process the Public Utility District (PUD) would have to go through to actually put lines in the ground and run water to areas. Hester stated there are County code regulations, planning, and permitting for building in the right-of-way.

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

Steve Jilk, Public Utility District (PUD) #1 General Manager, stated this is a replacement of three existing franchises in place right now. Those franchises cover specific main transmission lines from the treatment plants in Ferndale and north of Ferndale to serve the Cherry Point area. The franchise is new in the sense that it covers all areas of Whatcom County. The existing franchises now specifically cover the three pipelines that are in place. The PUD has taken on ownership of the Grandview/Interstate 5/Northgate water system and developed extensions from the main transmission lines to serve water associations and about 50 irrigation customers. The PUD has no plans at this time to extend infrastructure to other locations in the county. Under the authority of the PUD, established by vote in 1937, the PUD has the legal right to serve water and electricity throughout Whatcom County. The County approved a franchise in 2011 to allow the PUD to operate its electrical system throughout Whatcom County. The PUD reiterates that this does not provide the PUD the opportunity to extend water service throughout the county. That has to be provided through other means.

Karen Brown stated she opposes the franchise. The PUD should not get special treatment. The PUD commissioners have said they have the right to tax the whole county. The PUD has 13 miles in a small area that includes Cherry Point in which it can distribute water and power. The PUD has taken two years to fix the legal paperwork for their wellhead pipes and building that they operate for the Grandview water and fire system. She asked why the County would grant a countywide franchise when the PUD can’t serve its own service area in a timely manner. Birch Bay Lynden Water and Sewer recycles 1.5 million gallons in its water plant. They have been denied access to serve Cherry Point, which would free up potable water from the Nooksack. Be aware of everything going on behind the scenes before granting a countywide franchise.

Hearing no one else, Weimer closed the public hearing.
Weimer asked about the process the PUD would have to go through to provide water service to the entire county. Jilk stated it depends on the water rights, type of use, place of use, point of withdraw, and whether the service is retail or wholesale. The place for which they can provide retail service is defined in the Coordinated Water System Plan and by the State Department of Health. The PUD water rights allow the PUD to provide wholesale service throughout the county. The type and place of use is also defined in their water rights. The PUD provided water to the British Petroleum (BP) refinery for industrial and potable purposes until a couple of years ago. The quality of the water didn’t meet Health Department standards, and had to be treated. BP determined it was more cost efficient to buy potable water directly from the Birch Bay Water and Sewer District. The Coordinated Water System Plan was amended to allow the district to serve the BP refinery. The PUD would have to go through that type of action to serve retail.

Weimer asked if the County Council approves the amendments. Jilk stated they are amendments to the Coordinated Water System Plan service area. The PUD can provide wholesale water to anyone in the county just through an agreement.

Weimer stated the community is concerned that the PUD can provide water wholesale without coming to the County for approval to run pipe in the County right-of-way. Jilk stated they can do that now by running pipe through private easement agreements with private property owners.

Browne asked if the PUD would not have to get private easements if the franchise is approved and the PUD has access to the County rights-of-way. He asked if the PUD no longer needs the County’s permission to cross County roads with this franchise in place. Jilk stated that’s correct. If the PUD is ever asked to take ownership of a portion of another system or tie different systems together, and the route is best located within or crossing County right-of-way, this franchise would allow the PUD to do that. The actual construction still requires work with the County. There is no increased opportunity for the PUD. There is no restriction on any other utility to keep them from applying for a similar franchise.

Brenner asked if an expansion would be prohibitively expensive without this franchise. Jilk stated it would not.

Browne asked if the County Health Department would require a property owner seeking water service to get that water from the PUD, because the service areas will overlap. Jilk stated the purpose of the Coordinated Water System Plan is to ensure that water is available and those service areas don’t overlap.

Jon Sitkin, PUD #1 Attorney, stated the PUD can only provide wholesale water, not retail water. The franchise grants an easement through County rights-of-way to locate a water line. It does not grant the authority to provide water service.

Kremen asked what the new franchise would do that the current franchises do not. Jilk stated the current franchises cover the existing transmission lines. Also, there are existing facilities that are not covered by the current franchises. If requested to serve other parts of the county, the PUD will have that flexibility to work within the County right-of-way.
Kremen asked if this franchise gives the PUD no additional authority to serve. Jilk stated the franchise gives the PUD the authority to work within County rights-of-way, but not to provide retail service to customers.

Brenner stated this franchise gives the PUD an advantage over other water utility districts and associations. She’s not sure why the current agreements don’t work. If they don’t work, the County should change it for everyone. There should be a blanket ordinance for all water providers.

Browne asked the location of the PUD water intake. Jilk stated one is at Pioneer Park in Ferndale. Another is two miles upriver off of Trigg Road. Together, the PUD has water rights equivalent to about 54 million gallons per day. They have the capacity to pump and treat about 46 million gallons per day.

Browne stated draw the water at the low end of the river instead of the high end of the river to protect fish. He asked for a service map and a chart of the current situation, including anything noncompliant with permitting, and a map and chart after approval. He struggles to understand what is changing.

Weimer asked if approval of this franchise would enable growth in rural areas. Jilk stated that it could, but there are restrictions to the location and type of water, even though it’s a wholesale use. The PUD could still request to amend the Coordinated Water Service Plan. The issue of providing water to expand development of rural areas is restricted based upon zoning laws.

Jack Louws, County Executive, stated his experience in working with the PUD was very positive during his years as the mayor of the City of Lynden. The PUD is going to be a huge partner in the future to solve municipal water issues. He supports the franchise. If any district with extra water wants the same opportunity as the PUD, the County would grant them that same opportunity. It’s not a competition. A blanket franchise would be a problem, because the owners of the pipes in the ground are responsible to maintain them. The PUD is bound by a contract to maintain the pipes by signing the franchise agreement. The PUD commissioners are elected to serve everyone in the county. They will have to take action on some of these franchises, which are expired or expiring soon.

Brenner stated she is not opposed to consolidating the three existing PUD franchises. She is not comfortable with a countywide franchise. Treat all the providers the same.

Jilk stated the Council can grant an opportunity to serve countywide to any utility district that requests it. It is a nonexclusive franchise. The PUD is the only public utility established under the vote of the entire county in 1937 to serve all of Whatcom County with electric and water service, so there is a difference.

Crawford moved to adopt the ordinance.

Browne moved to hold in Council until the PUD can prepare and provide documents that will explain the impacts of combining the three franchises and the differences between the current franchises and the proposed franchise. Provide a map that shows the current service area and the areas out of compliance that would be brought into compliance by this ordinance.
Kremen asked for clarity on what area the PUD currently serves and what the potential new expanded service will be. Jilk stated neither this nor any franchise impacts the PUD service area. The ability to serve water isn’t granted by the franchise.

Crawford stated there is no harm in this ordinance. It’s great that the jurisdictions are working together to provide water. He hopes to change the Coordinated Water System Plan someday to a countywide buildable water system plan for drinking water. Enable water providers to move in that direction.

Browne restated his motion to describe the difference between this agreement and existing agreements, specifically answering how this could impact or expand the supply of water around the county.

Weimer suggested a friendly amendment to also ask the Planning and Development Services Department staff to provide information.

Browne accepted the friendly amendment.

The motion to hold in Council carried by the following vote:

Ayes: Brenner, Mann, Browne, Buchanan, Weimer and Kremen (6)
Nays: Crawford (1)


Roland Middleton, Public Works Department, gave a staff report and stated this amends the current six-year plan. The Board approved a supplemental budget. The Revised Code of Washington (RCW) requires capital projects be part of the improvement program passed by resolution. The bank stabilization project that the Board has been discussing is included so work can commence this year.

Weimer opened the public hearing, and the following person spoke:

Terry Wechsler stated she is strongly opposed to the bank stabilization project. Property owners have certain responsibilities when they buy next to rivers. There is much work to do in the county regarding water. The County shouldn’t do this bank stabilization project.

Hearing no one else, Weimer closed the public hearing.

Brenner moved to approve the resolution.

Mann stated he supports the emergency repair work at Swift Creek but is opposed the Syre property bank stabilization project, which uses public funds to bail out a private

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landowner in a project that jumped to the top of the project priority list. He asked if they could remove the bank stabilization project from this resolution. Middleton stated they could. The Public Works Department is not bringing forward the bank stabilization project. It was a request of the Board of Supervisors.

Paula Cooper, Public Works Department, stated she thinks the resolution should be treated like the six-year transportation improvement plan.

Mann moved to amend the resolution to remove the Syre property bank stabilization project and approve only the Swift Creek emergency repair project.

Kremen stated there is merit for both sides of the Syre project. He originally voted to support the project. Fixing the erosion project several years ago when the problem began would have cost a few thousand dollars. Now the cost is three-quarters of a million dollars. He reluctantly supports the motion to remove the Syre property bank stabilization project. It’s difficult to spend that much money on a project that barely received a majority vote of the advisory committee and was not included in the six-year plan.

Brenner stated she is against the motion to remove the Syre project. The controversy is about the Syre name and about politics. She has no connection with David Syre. She visited the site. The problem is worse than typical turbidity. She spoke to an expert in the field who said it causes problems for salmon habitat. Also, the erosion is getting close to the highway. The State will take care of it by shutting down the highway. The County is obligated to the people who live on the highway. It’s about protecting property that has public benefit and about protecting salmon habitat. They do this on other private properties.

Weimer stated he supports the motion and will vote against funding the Syre project. It’s a low priority on the priority list. Funds in the amount of $750,000 can go a long way to correct many other water issues before the Board. They can’t afford to protect everyone’s property.

Brenner stated the erosion is happening quickly. They are risking residents’ abilities to get to and from critical services. This project is important. She recalls that the Flood Control Zone District would request some of the cost be paid by the owner. Cooper stated the repair and maintenance program has a 70/30 cost share. The District would request 30 percent of the cost from the Sumas/Everson/Nooksack Subzone District, but only two positions are filled on the advisory committee.

The motion to amend carried by the following vote:

Ayes: Mann, Browne, Buchanan, Weimer and Kremen (5)

Nays: Crawford and Brenner (2)

The motion to approve the resolution as amended carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

Roland Middleton, Public Works Department, gave a staff report and stated this corrects an error in which they should have put the Lummi Nation transportation projects on the list as part of the Gooseberry Point pedestrian project.

Browne asked if they are defining the area as anywhere in the Lummi Nation. Middleton stated that's correct.

Mann asked if the first $2 million payment is dedicated to Gooseberry Point improvement projects. Middleton stated it is $2 million for any transportation project the Lummi Nation brings forward. They had to match it. The first project the Lummi Nation identified was Gooseberry Point. The next project is Lummi Shore, and they may also do improvements at other various locations.

Crawford asked if the area defined during the lease negotiation is no longer the priority. Middleton stated it is. Future payments can go to other projects.

Kremen asked if the request tonight is to correct an oversight and elaborate on how the money can be spent. Middleton stated that's correct.

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Brenner moved to approve the resolution.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

### 5. RESOLUTION AUTHORIZING THE SALE OF SURPLUS PROPERTY PURSUANT TO WCC 1.10 (AB2014-229A) (8:47:19 PM)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Browne moved to approve the resolution.

Brenner asked why they are getting rid of vehicles with fewer than 100,000 miles.

Frank Abart, Public Works Department Director, said they are for fleet reduction. They are reducing the size of the fleet.

Brenner stated they should keep these vehicles instead of getting new vehicles in the future.

Kremen stated the County will get more money for the vehicles when they’re sold at auction, and it won’t replace these vehicles. He commends staff and the administration for this fleet reduction. He supports the resolution.

Browne asked if the older vehicles have lower fuel economy. Abart stated that’s correct.
Browne stated the industry began to include a suite of safety features on the newer vehicles. He supports the resolution because the newer vehicles will have a lower operating cost and greater driver safety.

The motion carried by the following vote:

**Ayes:** Mann, Crawford, Browne, Buchanan, Weimer and Kremen (6)

**Nays:** Brenner (1)

6. **ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20 TO ALLOW PACKINGHOUSES AND SLAUGHTERHOUSES IN THE AGRICULTURE (AG), HEAVY IMPACT INDUSTRIAL (HII), AND RURAL AND INDUSTRIAL MANUFACTURING (RIM) ZONING DISTRICTS (AB2014-060D) (8:54:49 PM)**

Weimer opened the public hearing, and the following person spoke:

Terry Wechsler stated she is the attorney for the appellant in the appeal of the original slaughterhouse ordinance. There are still issues regarding the lawsuit in terms of small farming. The question is why allow the larger facilities in the agricultural district if they are going to rezone the RIM and HII zones to allow both slaughtering and processing. Restrict the larger facilities to the RIM and HII zones. Also, the public was never asked for input on the RIM and HII zones. There has been no State Environmental Policy Act (SEPA) process. It would be appropriate to require site-specific SEPAs.

Hearing no one else, Weimer closed the public hearing.

**Mann moved** to adopt the ordinance.

Brenner stated the RIM and HII zones are for bigger projects and they will receive more scrutiny. It also costs more to build in those zones, which have public water. There is usually water availability in those areas, and the use won’t be near a residential area. Those applications would be treated differently from those in the agricultural zone. They did a good job with that language.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

**OPEN SESSION**

(9:00:27 PM)

The following people spoke:

- Greg Brown spoke about scheduling Open Session earlier in the Council meeting.
- Karen Brown spoke about the ordinance amending the 2014 Whatcom County Budget, thirteenth request, in the amount of $790,206 (AB2014-255).

Jack Louws, County executive, stated this item is for a pictometry project for the geographic information system (GIS), not for drones.

*Whatcom County Council, 7/8/2014, Page 11*
Crawford stated he would like the Public Works Department to purchase a photography-capable quad-copter to study river erosion projects. He would like to pursue that at some point.

- Carole Perry spoke about the use of acronyms in County documents.

**CONSENT AGENDA**

*(9:09:03 PM)*

Crawford reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through eight, including an additional request for Consent Agenda item three to authorize the Executive to enter into sub-recipient agreements resulting from this grant agreement.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)
- **Nays:** None (0)

1. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND GERALDINE COLEMAN, SCOTT MAWSON AND MARGARET MAWSON FOR CHILDREN’S REPRESENTATION IN DEPENDENCY PROCEEDINGS, IN THE AMOUNT OF $76,548 (AB2014-245)**

2. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERAGENCY AGREEMENT BETWEEN WHATCOM COUNTY AND WASHINGTON STATE DEPARTMENT OF COMMERCE - BYRNE JUSTICE ASSISTANCE GRANT PROGRAM TO SUPPORT POSITIONS IN THE SHERIFF’S OFFICE AND PROSECUTING ATTORNEY’S OFFICE AND OPERATIONAL COSTS FOR THE DRUG TASK FORCE, IN THE AMOUNT OF $131,738 (AB2014-246)**

3. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND THE STATE MILITARY DEPARTMENT TO SUPPORT ENHANCED COOPERATION AND COORDINATION AMONG LOCAL, TRIBAL, TERRITORIAL, STATE AND FEDERAL LAW ENFORCEMENT AGENCIES IN A JOINT MISSION TO SECURE THE INTERNATIONAL BORDERS OF THE UNITED STATES, IN THE AMOUNT OF $447,391 (AB2014-247)**

4. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #14-40 TO THE RESPONSIVE BIDDER, PAPE MACHINERY, FOR THE SUPPLY OF TWO SELF-PROPELLED PNEUMATIC TIRE Rollers, IN THE AMOUNT OF $170,562 (AB2014-248)**

5. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ACCEPT ALL BIDS FOR THE ANNUAL SUPPLY OF ROCK, GRAVEL AND SOIL FOR USE AS NEEDED FOR VARIOUS COUNTY MAINTENANCE PROJECTS, AND SELECT THE**
APPROPRIATE VENDOR AS DICTATED BY THE SPECIAL CIRCUMSTANCES OF EACH PARTICULAR JOB, IN AN AMOUNT TO EXCEED $50,000 (AB2014-249)

6. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #14-39 TO BOTH GRANITE CONSTRUCTION AND WHATCOM BUILDERS FOR THE ANNUAL SUPPLY OF ASPHALTIC MIXES, AND SELECT THE VENDOR THAT HAS THE BEST VALUE BASED ON PRICE AND COST TO TRANSPORT THE PRODUCT TO THE JOB SITE, IN AN AMOUNT THAT COULD EXCEED $50,000 (AB2014-250)

7. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #14-33 AND ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND THE LOW BIDDER, HENIFIN CONSTRUCTION, LLC FOR THE CORONADO-FREMONT STORMWATER IMPROVEMENTS, IN THE AMOUNT OF $278,884.33 (AB2014-251)

8. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND ARC OF WHATCOM COUNTY TO PROVIDE COMMUNITY INFORMATION, EDUCATION, AND FAMILY SUPPORT SERVICES TO INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, THEIR FAMILIES/CAREGIVERS, AND THE PUBLIC, IN THE AMOUNT OF $65,000 (AB2014-252)

OTHER ITEMS

1. RESOLUTION COMMENCING THE COORDINATED WATER SYSTEM PLAN UPDATE PROCESS (AB2014-253) (9:10:23 PM)

Brenner reported for the Public Works, Health, and Safety Committee and stated this is held in committee for two weeks.

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S REAPPOINTMENT OF JANA FINKBONNER TO THE NORTHWEST SENIOR SERVICES BOARD (AB2014-254) (9:11:01 PM)

Kremen moved to confirm the appointment.

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

INTRODUCTION ITEMS

(9:11:37 PM)
Crawford moved to accept the Introduction Items.

The motion carried by the following vote:

Ayes: Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

1. RECEIPT OF APPEAL OF A HEARING EXAMINER’S DECISION (APL2014-0001 & APL2014-0002), FILED BY DAVID STALHEIM, REGARDING A 180 DAY EXTENSION TO A LAND DISTURBANCE PERMIT (LDO2011-0054) ISSUED TO PACIFIC INTERNATIONAL TERMINALS, INC. (AB2014-208)

2. ORDINANCE AMENDING THE 2014 WHATCOM COUNTY BUDGET, THIRTEENTH REQUEST, IN THE AMOUNT OF $790,206 (AB2014-255)

3. ORDINANCE AMENDING WHATCOM COUNTY CODE CHAPTER 20.13, WIRELESS COMMUNICATIONS FACILITIES, TO STREAMLINE PERMIT PROCESSING ON ROUTINE WIRELESS COMMUNICATION EQUIPMENT UPGRADES ON EXISTING, APPROVED, AND CONFORMING SITES; ADD A NEW SECTION ON PERMITTED USES; REORGANIZE THE CHAPTER TO BETTER MATCH THE ORGANIZATION OF OTHER TITLE 20 CHAPTERS; AND AMEND CHAPTER 20.97 – DEFINITIONS (AB2014-256)

4. ORDINANCE AMENDING WHATCOM COUNTY CODE 24.13, DECONTAMINATION OF ILLEGAL DRUG MANUFACTURING OR STORAGE SITES (AB2014-257)

5. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.03, BOARDS AND COMMISSIONS, TO CHANGE APPLICATION DEADLINES (AB2014-258)

6. RESOLUTION AMENDING WHATCOM COUNTY CODE 100.02, FLOOD CONTROL ZONE DISTRICT ADVISORY COMMITTEE VACANCIES, AND WHATCOM COUNTY CODE 100.06, SUBZONE ADVISORY COMMITTEE VACANCIES (AB2014-259)

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

(9:12:09 PM)

DISCUSSION REGARDING A PROPOSAL TO CREATE A SCENIC LOOP IN POINT ROBERTS (AB2014-243).

Brenner reported for the Public Works, Health, and Safety Committee and moved to recommend the concept of a scenic loop in Point Roberts, and this item has only to do with signage.

Crawford asked if the County Council would formally designate the loop as a scenic route.

Kremen stated it would.
The motion carried by the following vote:

**Ayes:** Brenner, Mann, Crawford, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

Buchanan reported for the Natural Resources Committee on the **Water Action Plan update (AB2014-067A)** presented by Tyler Schroeder, Executive’s Office.

Crawford reported for the Finance and Administrative Services Committee on the **Executive’s Report**. Few councilmembers attended. He asked if councilmembers prefer that he give this report at the end of the evening meetings.

Weimer stated he prefers to have the report at the beginning of the Finance and Administrative Services Committee meetings.

**The Council concurred.**

Browne reported that July 1st was the 25th anniversary of the Sanitary Services Company (SSC) recycling program.

Weimer reported he attended a very good Lake Whatcom Policy Group meeting in which they considered the need for $300,000 of local money to supplant grant money. Also, he can’t attend the next meeting on July 14 and would like another councilmember to attend in his place.

Mann stated he will attend.

Weimer reported he will also not be able to attend the next surface water work session on July 15. Councilmember Crawford also indicated he can’t attend, so he wants to make sure the Council has a quorum.

Brenner reported she attended a play by the Lummi Nation entitled “What About Those Promises?” She was very impressed by the quality of the play.

Kremen reported he also attended the Lummi Nation play. Also, the annual raspberry festival is scheduled July 19 from 9:00 a.m. to 6:00 p.m. on Front Street in Lynden.

Louws reported on the successful and seamless handoff from the Bellingham Fire District to Fire District 7. He thanked the staffs and chiefs of the two districts.

**ADJOURN**

The meeting adjourned at 9:29 p.m.

The Council approved these minutes on ______________, 2014.

**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

Carl Weimer, Council Chair

Jill Nixon, Minutes Transcription
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:**
Ordinance regarding installation of stop signs on Northwest Drive at the intersection of Slater Road.

**ATTACHMENTS:**
1. Memo to County Executive
2. Ordinance
3. Vicinity Map for intersection of proposed stop sign locations

**SEPA review required?** ( ) Yes (X) NO
**SEPA review completed?** ( ) Yes (X) NO
**Should Clerk schedule a hearing?** (X) Yes ( ) NO
**Requested Date:** 9/16/2014

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

To comply with RCW 46.61.200 and 47.36.110, it is found necessary to modify traffic control signs on Northwest Drive at the intersection of Slater Road.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
8/5/2014: Introduced 5-0, Crawford and Mann absent, proposed Public Hearing for September 16

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

Through: Frank Abart, Public Works Director

FROM: Joseph P. Rutan, P.E., County Engineer/Assistant Director

DATE: July 22, 2014

Subject: Ordinance to Install Stop Signs on Northwest Drive at Slater Road

Requested Action:
This ordinance will allow for placement of stop signs on Northwest Drive at the intersection of Slater Road.

Background and Purpose:
In order to improve the safety of the road, it is recommended that stop signs be installed at the intersection of Northwest Drive and Slater Road.

Information:
To comply with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to modify traffic control signs at Northwest Drive and Slater Road. This ordinance will allow the installation of stop signs at this intersection in order to improve safety.
SPONSORED BY: _____________

PROPOSED BY: Public Works - Engineering

INTRODUCTION DATE: 9/16/2014

ORDINANCE NO. _______

INSTALLING STOP SIGNS ON NORTHWEST DRIVE AT SLATER ROAD

WHEREAS, in compliance with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to install traffic control signs on certain County Roads; and

WHEREAS, a traffic study was conducted by the County Engineer’s Office; and

WHEREAS, it is found necessary that the existing intersection of Northwest Drive and Slater Road be modified to an all-way stop.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following be added to the Whatcom County Code Section 10.16 as follows:

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<th>Direction - Stopping</th>
<th>Cross Street</th>
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</thead>
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<td>Northbound</td>
<td>Slater Road</td>
</tr>
<tr>
<td>Northwest Drive</td>
<td>Southbound</td>
<td>Slater Road</td>
</tr>
</tbody>
</table>

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the appropriate signs and that the Whatcom County Sheriff be notified by a copy of this ordinance.

ADOPTED this ___ day of __________________, 2014.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ________________________________
Dana Brown-Davis, Council Clerk    Carl Weimer, Council Chair

APPROVED AS TO FORM:

( ) Approved   ( ) Denied

______________________________
Daniel L. Gibson
Chief Civil Deputy Prosecutor

______________________________
Jack Louws, Executive
Date: ________________________
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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EXECUTIVE:

TITLE OF DOCUMENT:
Ordinance regarding installation of stop signs on Airport Drive at the intersection of Airport Way.

ATTACHMENTS:
1. Memo to County Executive
2. Ordinance
3. Vicinity Map for intersection of proposed stop sign locations

SEPA review required? ( ) Yes (X) NO
SEPA review completed? ( ) Yes (X) NO
Should Clerk schedule a hearing? (X) Yes ( ) NO
Requested Date: 9/16/2014

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

To comply with RCW 46.61.200 and 47.36.110, it is found necessary to modify traffic control signs on Airport Drive at the intersection of Airport Way.

COMMITTEE ACTION:
8/5/2014: Introduced 5-0, Crawford and Mann absent, proposed Public Hearing for September 16

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

Through: Frank Abart, Public Works Director

FROM: Joseph P. Rutan, P.E., County Engineer/Assistant Director

DATE: July 22, 2014

Subject: Ordinance to Install Stop Signs on Airport Drive at Airport Way

Requested Action:
This ordinance will allow for placement of stop signs on Airport Drive at the intersection of Airport Way.

Background and Purpose:
In order to improve the safety of the road, it is recommended that stop signs be installed at the intersection of Airport Drive at Airport Way.

Information:
To comply with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to modify traffic control signs at Airport Drive and Airport Way. This ordinance will allow the installation of stop signs at this intersection in order to improve safety.
SPONSORED BY: 

PROPOSED BY: Public Works - Engineering

INTRODUCTION DATE: 9/16/2014

ORDINANCE NO._______

INSTALLING STOP SIGNS ON AIRPORT DRIVE

WHEREAS, in compliance with RCW 46.61.200 and 47.36.110, it is found necessary and expedient to install traffic control signs on certain County Roads, and

WHEREAS, a traffic study was conducted by the County Engineer's Office; and

WHEREAS, it is found necessary that the existing intersection of Airport Drive and Airport Way be modified to an all-way stop.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the following be added to the Whatcom County Code Section 10.16 as follows:

<table>
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<th>Road Name</th>
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</tr>
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<td>Airport Way</td>
</tr>
<tr>
<td>Airport Drive</td>
<td>Westbound</td>
<td>Airport Way</td>
</tr>
</tbody>
</table>

BE IT FURTHER ORDAINED that the County Engineer is hereby directed to install the appropriate signs and that the Whatcom County Sheriff is notified by a copy of this ordinance.

ADOPTED this ___ day of________________, 2014.

ATTEST: 

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________
Dana Brown-Davis, Council Clerk

__________________________
Carl Weimer, Council Chair

APPROVED AS TO FORM:

__________________________
( ) Approved  ( ) Denied

__________________________
Jack Louws, Executive

Date: ______________________

Page 1 of 1
Vicinity Map: Proposed Stop Signs
Airport Dr.

City of Bellingham

- Proposed Stop Signs
- Existing Stop Signs
ORDINANCE amending WCC 8.13 Solid Waste Disposal District

ATTACHMENTS:
Memo
Solid Waste Ordinance
Strike out version of WCC 8.13
Clean version of WCC 8.13

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

The purpose of the proposed language amendment to WCC 8.13 - Solid Waste Disposal District is to remove reference to the management of solid waste programs by Whatcom County Public Works department and replace with Health department.

COMMITTEE ACTION:

COUNCIL ACTION:
8/5/2014: Introduced 5-0, Crawford and Mann absent, proposed Public Hearing for September 16

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
TO: Jack Louws, Whatcom County Executive
FROM: Regina A. Delahunt, Health Director
DATE: July 24, 2014
RE: Ordinance Amending WCC 8.13 Solid Waste Disposal District Language

Requested Action
Attached is an ordinance amending language for Whatcom County Code WCC 8.13, Solid Waste Disposal District for introduction August 5, 2014 followed by public hearing before the County Council in September.

Background and Purpose
The responsibility for Solid Waste Program management has historically been provided within the Public Works Department. Solid waste management needs have changed over the years from local, publically owned and operated disposal sites to privatized waste collection and transport to regional landfills. The responsibilities within the Public Works Department has also evolved and now includes water resource planning which is a complex and time intensive program.

Transferring the Solid Waste Fund and Program to the Health Department with the start of the 2015/2016 budget is appropriate from both an administrative and program oversight perspective as the Health Department has the willingness, capacity and expertise to manage both the fund and all aspects of the program while allowing Public Works to increase attention on the pressing water resource issues that are faced by the county. This change is in the best interest of the public and will generate the best value for the taxpayers.

A language amendment to WCC 8.13 is necessary to remove the reference to Public Works department and replace it with the Health department.

Information
Enclosed are an agenda bill, ordinance, and revised WCC 8.13 both strike-out version and final (clean) version.

Thank you for your consideration. Please call me at extension 50801 if you have any questions.

Encl.
ORDINANCE NO. 2014-________

AMENDING WHATCOM COUNTY CODE 8.13, TRANSFER SOLID WASTE OPERATIONS MANAGEMENT FROM PUBLIC WORKS TO THE HEALTH DEPARTMENT

WHEREAS, Whatcom County established the Solid Waste District effective May 1, 1990 for the purposes of managing all solid waste streams generated throughout the county; and,

WHEREAS, Whatcom County Public Works is the designated authority for managing solid waste program operations; and,

WHEREAS, Whatcom County Public Works is redirecting staff time and effort to pressing ground and surface water issues in the county; and

WHEREAS, Whatcom County Health Department currently manages all aspects of solid waste compliance enforcement, and has demonstrated staff expertise in solid waste program infrastructure development;

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that management of the Solid Waste District operations be transferred from the Whatcom County Public Works Department to the Whatcom County Health Department under the authority of the County Executive and with this ordinance to be codified in Whatcom County Code Chapter 8.13.100, attached hereto as Exhibit A.

ADOPTED this ____ day of ________, 2014.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________  ____________________________
Dana Brown-Davis, Clerk of the Council  Carl Weimer, Council Chair

APPROVED AS TO FORM:

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

__________________________  ____________________________
Royce Buckingham, Civil Deputy Prosecutor  Jack Louws, County Executive

(  ) Approved    (  ) Denied

Date Signed: ________________________
Chapter 8.13
SOLID WASTE DISPOSAL DISTRICT

Sections:
8.13.010 District formed – Findings and determinations.
8.13.020 Definitions.
8.13.030 Excise privilege tax levied.
8.13.040 Tax collection.
8.13.050 Administration by county treasurer.
8.13.060 Failure to make timely payment.
8.13.065 Records required.
8.13.070 Application of tax – Appeal.
8.13.080 Tax exemptions and special conditions.
8.13.090 Penalties for nonpayment of tax.
8.13.100 Management of operations.
8.13.110 Use of revenues.
8.13.120 Effective date.
8.13.130 Severability.
8.13.140 Annual review of tax requirements.

8.13.010 District formed – Findings and determinations.
The Whatcom County solid waste disposal district ("district") is hereby formed to provide a sound financial basis for support of the objectives of the county's updated comprehensive solid waste management plan, including a high level of waste reduction and recycling; to construct transfer stations; to maintain closed solid waste landfills in Whatcom County; to provide such other solid waste disposal systems and services as are in the public interest; and to secure a healthful environment for all citizens of Whatcom County. The district shall include all unincorporated and incorporated areas of Whatcom County. Incorporated areas are included within the district pursuant to interlocal agreements executed with Whatcom County, copies of which are attached to the ordinance codified in this chapter and incorporated herein as Appendix A. The county council in forming the district determines and finds:

A. State and federal law and regulation have placed increased responsibility on local governments to manage solid waste disposal systems in a manner that protects public health and safety;

B. Properly designed, operated, and maintained landfills and other solid waste disposal facilities are essential public utilities serving broad public interests, by protecting public health and safety;

C. Federal and state standards for solid waste disposal, including requirements for recycling and waste reduction, have greatly increased the cost of solid waste disposal systems;

D. The transfer and other handling of solid wastes generated by residents of the district, whether generated at their homes or elsewhere in the district, imposes cost burdens on the district;
E. All residences and businesses within the district receive substantial and essential public service by having the operational availability on a continuing basis healthful, safe and reliable solid waste disposal facilities and systems;

F. In order to safely maintain closed landfills, the county must expend substantial sums of money including the cost of ongoing monitoring, to protect the public health and welfare and to meet regulatory standards;

G. The cost of acquiring, developing, operating, maintaining and closing facilities and providing for long-term compliance with regulatory standards cannot be financed solely on a “fee for service” basis;

H. Repealed by Ord. 97-041;

I. Pursuant to Chapter 8.11, the county concurrently created a solid waste collection district pursuant to RCW Chapter 36.58A for the purpose of imposing mandatory collection in unincorporated areas which will match ordinances in incorporated areas, which enforce mandatory collection;

J. A stable funding program consisting of a district excise tax is required to provide a broad and sound financial basis to provide safe disposal facilities and systems, to meet the objectives of the plan, and to support the management of solid waste programs in compliance with applicable state and federal laws;

K. Waste reduction and recycling measures contemplated by the plan promote the health, safety and welfare of county residents, by reducing the degradation created by incineration and landfill facilities used to dispose of solid wastes;

L. Recycling and waste reduction do not generate sufficient revenues to become self supporting;

M. Imposition of the solid waste excise tax (the “tax”) provided for by this chapter will promote the county’s ability to meet all the plan’s solid waste management objectives.

N. Repealed by Ord. 97-041. (Ord. 97-041 Exh. A; Ord. 90-1 § 1).

8.13.020 Definitions.
As used in this chapter, the following terms shall be defined as follows:

A. “Business or institution” shall include all properties in Whatcom County other than residential dwellings which are served by a certificated or franchised hauler of solid wastes. The tax shall apply whether the business or institution is for profit or nonprofit, public or private.

B. A “certificated hauler” is a garbage and refuse collection company that has obtained a certificate of convenience and necessity from the WUTC pursuant to RCW Chapter 81.77 for a franchise area that includes unincorporated areas of the county.
C. The "executive committee" means the executive committee formed pursuant to the interlocal agreements incorporated in Appendix A of the ordinance codified in this chapter.

D. A "franchised hauler" is a garbage and refuse collection company that has been granted a franchise to provide service within one or more of the cities that have entered interlocal agreements with the county, as shown in Appendix A of the ordinance codified in this chapter.

E. Repealed by Ord. 97-041.

F. Repealed by Ord. 97-041.

G. The "plan" is the county's comprehensive solid waste management plan, as approved by the Department of Ecology in 1990 and as may be amended thereafter.

H. A "residential dwelling" shall include each single-family house, apartment, houseboat, or other dwelling unit which is separately billed for waste collection service by a franchised or certificated hauler. Forest areas, farms or ranches that elect to use collection service shall be considered as residential dwellings for purposes of this chapter. Residents of apartments, hotels, dormitories, boarding houses, maritime vessels, or other housing units shall not be separately taxed if the landlord or some other party arranges for solid waste collection and pays for solid waste collection and the tax on behalf of tenants or residents.

I. A "solid waste disposal facility" is a landfill, transfer station, incinerator, convenience center, drop box or other solid waste disposal facility which is available for use by persons other than the owner of the facility.

J. The "WUTC" is the Washington Utilities and Transportation Commission or any agency which succeeds to its powers. (Ord. 97-041 Exh. A; Ord. 90-1 § 2).

8.13.030 Excise privilege tax levied.

An excise privilege tax shall be levied upon the charges paid for solid waste collection by each residential dwelling and by each business or institution in the district. This excise privilege tax shall be levied on a per-ton basis and be billed by certificated or franchised haulers of solid waste, all as authorized by RCW 36.68.140.

This tax shall be equal throughout the district, and shall not exceed $8.50 per ton without the approval of all cities and towns in the district. The county council shall set the level of the tax from time to time by ordinance. (Ord. 97-041 Exh. A; Ord. 90-1 § 3).

8.13.040 Tax collection.

To simplify collection of the tax, each certificated or franchised hauler shall include the tax in its regular billing cycle for all customers within the district and remit the proceeds collected to the county treasurer by the due date as established by the treasurer. The excise tax provided for pursuant to this chapter shall, for administrative purposes, be billed and collected as nearly as possible in a manner compatible with the
state solid waste tax, RCW Chapter 82.18, and the surcharge, Section 15, Chapter 431, Laws of 1989.
(Ord. 97-041 Exh. A; Ord. 90-1 § 4).

8.13.050 Administration by county treasurer.
The administration and collection of the tax imposed by this chapter, as collected by the certificated and franchised haulers, shall be by the county treasurer pursuant to the terms of this chapter and such rules, regulations and further enactments as may be adopted by the county council or provided by state law.
(Ord. 97-041 Exh. A).

8.13.060 Failure to make timely payment.
If full payment of any tax or fee owing under this chapter is not received by the Whatcom County treasurer on or before the date due, there shall be added to the collected amount due a penalty fee as follows:

A. One to 10 days late: Five percent of tax collected.
B. Eleven to 20 days late: 10 percent of tax collected.
C. Twenty-one to 30 days late: 15 percent of tax collected.
D. Thirty-one to 60 days late: 20 percent of tax collected.

Failure to make payment in full of all tax amounts collected, and penalties, within 60 days following the day the tax initially became due shall be deemed a violation of this section and may be collected in accordance with the provisions of this chapter.

Any tax owing and unpaid under this chapter, and all penalties, shall constitute a debt between the certificated hauler and Whatcom County and may be collected by court proceedings the same as any other debt in like amount. This provision shall be in addition to, and not in lieu of, all other existing remedies. (Ord. 97-041 Exh. A).

8.13.065 Records required.
Each certificated and franchised hauler collecting the tax imposed by this chapter shall maintain books and/or records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer’s tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three years.

All books, records, or other items which may hereafter be required to be kept and maintained under this section shall be subject to, and immediately available for, inspection and audit at any time, with or without notice, at the place where such records are kept upon demand by the county treasurer or his/her designee, for the purpose of enforcing the provisions of this chapter.
Where a certificated or franchised hauler does not keep such books, records, or other items so that the county treasurer or an authorized designee may examine them conveniently, the certificated or franchised hauler shall produce all of the required books, records, or items for such inspection within 10 working days following a written request by the treasurer. (Ord. 97-041 Exh. A).

8.13.070 Application of tax - Appeal.
Any party aggrieved in the application of the excise tax provided for herein may appeal the same to the Whatcom County board of equalization. The decision of such board shall be binding on the county. (Ord. 97-041 Exh. A; Ord. 90-1 § 7).

8.13.080 Tax exemptions and special conditions.
Solid waste generated within the district but disposed of outside of Whatcom County pursuant to authorization by the county in compliance with the plan shall be subject to the tax, unless specifically waived by ordinance. Solid waste from the Diablo area disposed of in Skagit County shall not be subject to the tax. (Ord. 97-041 Exh. A; Ord. 90-1 § 8).

8.13.090 Penalties for nonpayment of tax.
If said excise tax is not paid when billed by the hauler, the county may seek payment of the tax and secure liens and execute against the property served for the unpaid tax, penalties and interest, all as provided in RCW 36.58.140. All taxes unpaid for 90 days shall be assessed a penalty of $25.00 plus interest at the rate of one percent per month for each month said tax remains unpaid. (Ord. 97-067; Ord. 97-041 Exh. A; Ord. 90-1 § 9).

8.13.100 Management of operations.
The operations of the district shall be managed by the Whatcom County Health Department, department of public works. (Ord. 97-041 Exh. A; Ord. 90-1 § 10).

8.13.110 Use of revenues.
All taxes or other fees collected pursuant to this chapter shall be deposited to the solid waste utility account, or such other accounts as may be designated pursuant to county ordinance or regulation, and shall be solely for purposes related to solid waste management and disposal, and, as to the excise tax, for those purposes set forth in Section 3 of the interlocal agreements, e.g., construction, operation, maintenance, and closure of any landfill that may be developed in the future; funding of approved recycling programs when recommended by the executive committee; public educational programs related to the management of solid waste; construction, maintenance, and operation of transfer stations, and such other programs as the executive committee may recommend pursuant to the plan; provided, however, that the county treasurer and prosecutor shall be authorized to recover their costs for tax billing and collection activities related to the solid waste excise tax up to a maximum of five percent of the funds collected. (Ord. 98-008; Ord. 97-041 Exh. A; Ord. 90-1 § 11).

8.13.120 Effective date.
This chapter shall take effect on May 1, 1990. The county council shall review the need for the solid waste excise tax, the level of the tax, and the operation of the solid waste system as frequently as may be needed. Such review shall be performed no less frequently than the review of solid waste management plans as required under RCW Chapter 70.95 and as such law may be amended from time to time. (Ord. 97-041 Exh. A; Ord. 90-1 § 12).

8.13.130 Severability.
The invalidity or unenforceability of any provision of this chapter shall not affect the other provisions hereof, and this chapter shall be construed in all respects as if such invalid or unenforceable provision were omitted. (Ord. 97-041 Exh. A; Ord. 90-1 § 13).

8.13.140 Annual review of tax requirements.
The executive committee shall annually review the tax requirements to fund the solid waste disposal programs and advise the county council of their findings. (Ord. 97-041 Exh. A; Ord. 90-1 § 14).
Chapter 8.13
SOLID WASTE DISPOSAL DISTRICT

Sections:
8.13.010 District formed – Findings and determinations.
8.13.020 Definitions.
8.13.030 Excise privilege tax levied.
8.13.040 Tax collection.
8.13.050 Administration by county treasurer.
8.13.060 Failure to make timely payment.
8.13.065 Records required.
8.13.070 Application of tax – Appeal.
8.13.080 Tax exemptions and special conditions.
8.13.090 Penalties for nonpayment of tax.
8.13.100 Management of operations.
8.13.110 Use of revenues.
8.13.120 Effective date.
8.13.130 Severability.
8.13.140 Annual review of tax requirements.

8.13.010 District formed – Findings and determinations.
The Whatcom County solid waste disposal district ("district") is hereby formed to provide a sound financial basis for support of the objectives of the county’s updated comprehensive solid waste management plan, including a high level of waste reduction and recycling; to construct transfer stations; to maintain closed solid waste landfills in Whatcom County; to provide such other solid waste disposal systems and services as are in the public interest, and to secure a healthful environment for all citizens of Whatcom County. The district shall include all unincorporated and incorporated areas of Whatcom County. Incorporated areas are included within the district pursuant to interlocal agreements executed with Whatcom County, copies of which are attached to the ordinance codified in this chapter and incorporated herein as Appendix A. The county council in forming the district determines and finds:

A. State and federal law and regulation have placed increased responsibility on local governments to manage solid waste disposal systems in a manner that protects public health and safety;

B. Properly designed, operated, and maintained landfills and other solid waste disposal facilities are essential public utilities serving broad public interests, by protecting public health and safety;

C. Federal and state standards for solid waste disposal, including requirements for recycling and waste reduction, have greatly increased the cost of solid waste disposal systems;

D. The transfer and other handling of solid wastes generated by residents of the district, whether generated at their homes or elsewhere in the district, imposes cost burdens on the district;
E. All residences and businesses within the district receive substantial and essential public service by having the operational availability on a continuing basis healthful, safe and reliable solid waste disposal facilities and systems;

F. In order to safely maintain closed landfills, the county must expend substantial sums of money including the cost of ongoing monitoring, to protect the public health and welfare and to meet regulatory standards;

G. The cost of acquiring, developing, operating, maintaining and closing facilities and providing for long-term compliance with regulatory standards cannot be financed solely on a “fee for service” basis;

H. Repealed by Ord. 97-041;

I. Pursuant to Chapter 8.11, the county concurrently created a solid waste collection district pursuant to RCW Chapter 36.58A for the purpose of imposing mandatory collection in unincorporated areas which will match ordinances in incorporated areas, which enforce mandatory collection;

J. A stable funding program consisting of a district excise tax is required to provide a broad and sound financial basis to provide safe disposal facilities and systems, to meet the objectives of the plan, and to support the management of solid waste programs in compliance with applicable state and federal laws;

K. Waste reduction and recycling measures contemplated by the plan promote the health, safety and welfare of county residents, by reducing the degradation created by incineration and landfill facilities used to dispose of solid wastes;

L. Recycling and waste reduction do not generate sufficient revenues to become self supporting;

M. Imposition of the solid waste excise tax (the “tax”) provided for by this chapter will promote the county’s ability to meet all the plan’s solid waste management objectives.

N. Repealed by Ord. 97-041. (Ord. 97-041 Exh. A; Ord. 90-1 § 1).

8.13.020 Definitions.
As used in this chapter, the following terms shall be defined as follows:

A. “Business or institution” shall include all properties in Whatcom County other than residential dwellings which are served by a certificated or franchised hauler of solid wastes. The tax shall apply whether the business or institution is for profit or nonprofit, public or private.

B. A “certificated hauler” is a garbage and refuse collection company that has obtained a certificate of convenience and necessity from the WUTC pursuant to RCW Chapter 81.77 for a franchise area that includes unincorporated areas of the county.
C. The "executive committee" means the executive committee formed pursuant to the interlocal agreements incorporated in Appendix A of the ordinance codified in this chapter.

D. A "franchised hauler" is a garbage and refuse collection company that has been granted a franchise to provide service within one or more of the cities that have entered interlocal agreements with the county, as shown in Appendix A of the ordinance codified in this chapter.

E. Repealed by Ord. 97-041.

F. Repealed by Ord. 97-041.

G. The "plan" is the county's comprehensive solid waste management plan, as approved by the Department of Ecology in 1990 and as may be amended thereafter.

H. A "residential dwelling" shall include each single-family house, apartment, houseboat, or other dwelling unit which is separately billed for waste collection service by a franchised or certificated hauler. Forest areas, farms or ranches that elect to use collection service shall be considered as residential dwellings for purposes of this chapter. Residents of apartments, hotels, dormitories, boarding houses, maritime vessels, or other housing units shall not be separately taxed if the landlord or some other party arranges for solid waste collection and pays for solid waste collection and the tax on behalf of tenants or residents.

I. A "solid waste disposal facility" is a landfill, transfer station, incinerator, convenience center, drop box or other solid waste disposal facility which is available for use by persons other than the owner of the facility.

J. The "WUTC" is the Washington Utilities and Transportation Commission or any agency which succeeds to its powers. (Ord. 97-041 Exh. A; Ord. 90-1 § 2).

8.13.030 Excise privilege tax levied.
An excise privilege tax shall be levied upon the charges paid for solid waste collection by each residential dwelling and by each business or institution in the district. This excise privilege tax shall be levied on a per-ton basis and be billed by certificated or franchised haulers of solid waste, all as authorized by RCW 36.58.140.

This tax shall be equal throughout the district, and shall not exceed $8.50 per ton without the approval of all cities and towns in the district. The county council shall set the level of the tax from time to time by ordinance. (Ord. 97-041 Exh. A; Ord. 90-1 § 3).

8.13.040 Tax collection.
To simplify collection of the tax, each certified or franchised hauler shall include the tax in its regular billing cycle for all customers within the district and remit the proceeds collected to the county treasurer by the due date as established by the treasurer. The excise tax provided for pursuant to this chapter shall, for administrative purposes, be billed and collected as nearly as possible in a manner compatible with the
state solid waste tax, RCW Chapter 82.18, and the surcharge, Section 15, Chapter 431, Laws of 1989. (Ord. 97-041 Exh. A; Ord. 90-1 § 4).

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The administration and collection of the tax imposed by this chapter, as collected by the certificated and franchised haulers, shall be by the county treasurer pursuant to the terms of this chapter and such rules, regulations and further enactments as may be adopted by the county council or provided by state law. (Ord. 97-041 Exh. A).

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C. Twenty-one to 30 days late: 15 percent of tax collected.

D. Thirty-one to 60 days late: 20 percent of tax collected.

Failure to make payment in full of all tax amounts collected, and penalties, within 60 days following the day the tax initially became due shall be deemed a violation of this section and may be collected in accordance with the provisions of this chapter.

Any tax owing and unpaid under this chapter, and all penalties, shall constitute a debt between the certificated hauler and Whatcom County and may be collected by court proceedings the same as any other debt in like amount. This provision shall be in addition to, and not in lieu of, all other existing remedies. (Ord. 97-041 Exh. A).

8.13.065 Records required.
Each certificated and franchised hauler collecting the tax imposed by this chapter shall maintain books and/or records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer's tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three years.

All books, records, or other items which may hereafter be required to be kept and maintained under this section shall be subject to, and immediately available for, inspection and audit at any time, with or without notice, at the place where such records are kept upon demand by the county treasurer or his/her designee, for the purpose of enforcing the provisions of this chapter.

Where a certificated or franchised hauler does not keep such books, records, or other items so that the county treasurer or an authorized designee may examine them conveniently, the certificated or franchised
hailer shall produce all of the required books, records, or items for such inspection within 10 working
days following a written request by the treasurer. (Ord. 97-041 Exh. A).

8.13.070 Application of tax – Appeal.
Any party aggrieved in the application of the excise tax provided for herein may appeal the same to the
Whatcom County board of equalization. The decision of such board shall be binding on the county. (Ord.
97-041 Exh. A; Ord. 90-1 § 7).

8.13.080 Tax exemptions and special conditions.
Solid waste generated within the district but disposed of outside of Whatcom County pursuant to
authorization by the county in compliance with the plan shall be subject to the tax, unless specifically
waived by ordinance. Solid waste from the Diablo area disposed of in Skagit County shall not be subject
to the tax. (Ord. 97-041 Exh. A; Ord. 90-1 § 8).

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If said excise tax is not paid when billed by the hauler, the county may seek payment of the tax and
secure liens and execute against the property served for the unpaid tax, penalties and interest, all as
provided in RCW 36.58.140. All taxes unpaid for 90 days shall be assessed a penalty of $25.00 plus
interest at the rate of one percent per month for each month said tax remains unpaid. (Ord. 97-067; Ord.
97-041 Exh. A; Ord. 90-1 § 9).

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The operations of the district shall be managed by the Whatcom County Health Department. (Ord. 97-041
Exh. A; Ord. 90-1 § 10).

8.13.110 Use of revenues.
All taxes or other fees collected pursuant to this chapter shall be deposited to the solid waste utility
account, or such other accounts as may be designated pursuant to county ordinance or regulation, and
shall be solely for purposes related to solid waste management and disposal, and, as to the excise tax,
for those purposes set forth in Section 3 of the interlocal agreements, e.g., construction, operation,
maintenance, and closure of any landfill that may be developed in the future; funding of approved
recycling programs when recommended by the executive committee; public educational programs related
to the management of solid waste; construction, maintenance, and operation of transfer stations, and
such other programs as the executive committee may recommend pursuant to the plan; provided,
however, that the county treasurer and prosecutor shall be authorized to recover their costs for tax billing
and collection activities related to the solid waste excise tax up to a maximum of five percent of the funds
collected. (Ord. 98-008; Ord. 97-041 Exh. A; Ord. 90-1 § 11).

8.13.120 Effective date.
This chapter shall take effect on May 1, 1990. The county council shall review the need for the solid
waste excise tax, the level of the tax, and the operation of the solid waste system as frequently as may be
needed. Such review shall be performed no less frequently than the review of solid waste management
plans as required under RCW Chapter 70.95 and as such law may be amended from time to time. (Ord. 97-041 Exh. A; Ord. 90-1 § 12).

8.13.130 Severability.
The invalidity or unenforceability of any provision of this chapter shall not affect the other provisions hereof, and this chapter shall be construed in all respects as if such invalid or unenforceable provision were omitted. (Ord. 97-041 Exh. A; Ord. 90-1 § 13).

8.13.140 Annual review of tax requirements.
The executive committee shall annually review the tax requirements to fund the solid waste disposal programs and advise the county council of their findings. (Ord. 97-041 Exh. A; Ord. 90-1 § 14).
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**TITLE OF DOCUMENT:**
Resolution to accept petition and poll book and order election for Drayton W.I.D.

**ATTACHMENTS:**

**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.)

Resolution accepting the petition and poll book, establishing boundaries, and ordering an election to determine formation of a proposed irrigation district in Whatcom County to be known as the Drayton Watershed Improvement District. Per 87.03 RCW, this resolution orders an election to determine if an irrigation district (to be known as the Drayton Watershed Improvement District) will be formed, sets the boundaries for the district, and approves the election process to be followed. At the hearing, council will receive evidence and may adjourn the hearing from time to time as necessary to gather additional information, not to exceed four weeks in all. After the hearing, the council will establish and define the boundaries of the district in order to "best reclaim the lands involved". Defining the boundaries is the council’s main function in the process. The council must leave it to the voters to decide whether the district will be formed. The council can’t modify the boundaries to exempt any territory already included in the boundaries if that territory is “susceptible of irrigation by the same system of works applicable to other lands in such proposed district and for which a water supply is available.” Lands that will not benefit from inclusion in the district may be exempted. Property may be added to the district boundaries if it is shown that it will benefit from being included in the district.

**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.
RESOLUTION NO. __________

ACCEPTING PETITION AND POLL BOOK, ESTABLISHING BOUNDARIES, AND ORDERING AN ELECTION TO DETERMINE FORMATION OF A PROPOSED IRRIGATION DISTRICT IN WHATCOM COUNTY TO BE KNOWN AS THE DRAYTON WATERSHED IMPROVEMENT DISTRICT

WHEREAS, on July 23, 2014, a petition was filed with the Whatcom County Council Office requesting that necessary steps be taken to organize an irrigation district in Whatcom County to be known as the Drayton Watershed Improvement District; and

WHEREAS, the petition met the requirements for a complete petition as outlined in State law; and

WHEREAS, on August 5, 2014, the Whatcom County Council was officially notified that the petition had been filed and the required bond in a sum double the amount of the estimated cost of forming the proposed district had been received; and

WHEREAS, the Council's role in the district formation process is to formally accept the petition and bond, establish the boundaries of the proposed district, establish the district's name, and call for an election of the property owners residing within the proposed district boundaries to determine whether the district shall be formed and who shall serve on the district's board of directors.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the proposed irrigation district shall be known as the Drayton Watershed Improvement District.

BE IT FURTHER RESOLVED that the petition requesting the organization of the Drayton Watershed Improvement District is hereby accepted as presented.

BE IT FURTHER RESOLVED that the poll book, as presented, is hereby accepted and certified as being as accurate as possible using the most current data available from the Whatcom County Assessor's Office.

BE IT FURTHER RESOLVED that the boundaries of the proposed district shall be as set forth in Exhibit A to this resolution.

BE IT FINALLY RESOLVED that an election shall be set and carried out in the manner detailed in Exhibit B to this resolution and an election date of October 23, 2014, is hereby set.

APPROVED this ________ day of ____________, 2014.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY WASHINGTON

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
EXHIBIT A
(DRAYTON WATERSHED IMPROVEMENT DISTRICT)

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, is as follows:

Township 40 North, Range 1 East, Willamette Meridian (WM)
Section 11 - SE¼
Section 12 - NE¼ except N 689' of NE¼, SW¼NE¼, W½SW¼NE¼, and E¼E¼E¾NE¼NW¼NE¼
Section 13 - excepting W½SW¼ and N¾NW¼ and N½NW¼NE¼
Section 14 - N½NE¼, E½NE¼NW¼
Section 24 - excepting W½W½ and SE¼SW¼ and S½SE¼
Section 25 - excepting W½NW¼ and N½NE¼NW¼ and NW¼NE¼ and W½NE¼NE¼
Section 34 - N½
Section 35 - S½N½, E½SE¼
Section 36 - N½NW¼, W½SW¼NW¼, N½NE¼, SE¼NE¼

Township 40 North, Range 2 East, Willamette Meridian (WM)
Section 7 - S¾NW¼, S½NE¼, SW¼, SE¼
Section 8 - excepting W½NW¼
Section 9 - excepting E½NE¼
Section 16 - excepting E½NE¼NE¼
Sections 17 - 20
Section 21 - excepting E½SE¼
Section 28 - N½ excepting E½NE¼
Section 29 - N½
Section 30 - excepting SE¼SE¼
Section 31 - W½, SW¼SE¼

Township 39 North, Range 2 East, Willamette Meridian (WM)
Section 4 - W½W½
Section 5 - SW¼NW¼, SW¼SW¼, W900 FT OF N60 ACRES SW¼, N50 ACRES OF S100 ACRES SW¼ LESS PETERSON 10 ACRES, S¾SE¼NE¼ LYING SOUTH OF DITCH, TRACT DESCRIBED AF 2110601404, LOT D HAPPY ACRES SHORT PLAT, E½SE¼, NW¼SE¼, NW¼SW¼SE¼ EXCEPTING Lot 1 HEINRICHES SHORT PLAT
Section 6 - all parcels east of I-5 excepting NE¾NE¼ and E½NW¼NE¼

Excepting from all of the above described parcels the following:
- All lands within the City of Ferndale;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.
- Parcels split by the legal description where the majority of the acres are outside the Legal Description for the district.
EXHIBIT B

THE ELECTION PROCESS

THE ELECTION:
The County Council is responsible for conducting the district’s formation election in a manner that is similar to the way future elections for directors of the district will be conducted. Voting will take place by mail. An election day of October 23, 2014, has been selected and ballots must be returned to the Council Office or postmarked by that date to be counted toward the election.

THE BALLOT:
A local printing company will be used to print the ballots, ballot envelopes, and instructions indicating how joint ownership and community property votes are cast as well, as a request to forward the ballot to the property owner if different from the person who receives it. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. Ballots will be coded to indicate how many votes each ballot is worth.

The ballot shall contain the following language:

“Irrigation District – YES”
“Irrigation District – NO”
The names of persons to be voted for as directors of the district.

To be counted in this election, ballots must conform to these requirements:

1. Voted ballots must be sealed and placed in a ballot envelope (provided) and the ballot envelope must be sealed in a return certification envelope (provided). The certification envelope will contain a “voter’s certification” and a “witness certification” on the back of the envelope as follows:

   **Voter’s Certification**

   I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a landowner within the proposed district who is 18 years or more of age, a citizen of the United States, a resident of the State of Washington, and hold title or evidence of title to assessable land in the proposed district. If the landowner is a corporation, I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a duly authorized agent for the purpose of voting on this election by the corporation.

   Signature ________________________________
   (Landowner/Voter)
   Print Name ________________________________
   (Landowner/Voter)
   City & State where signed __________________________
   Date Signed ________________________________

   **Witness Certification**

   I certify as true, under penalty of perjury under the laws of the State of Washington, that I am acquainted with the above voter and the voter’s signature above was affixed in my presence.

   Signature ________________________________
   (Witness)
   Print Name ________________________________
   (Witness)
   City & State where signed __________________________
   Date ________________________________

2. Both the “voter’s certification” and the “witness certification” must completed and signed as indicated. Unsigned and/or unwitnessed ballots will not be counted.
3. Ballots must be hand delivered to the Council Office prior to 4 p.m. on October 23, 2014; or mailed to the Clerk of the Council, postmarked no later than midnight on October 23, 2014, and received by the Clerk of the Council within five days of that date.

Ballots will be kept unopened and secure under the responsibility of the Clerk of the Council until the time in which ballots may be received is closed. The Council appoints the Clerk of the Council and assigned staff, with assistance from the Whatcom County Auditor as available, to proceed at once to determine whether the voters submitting ballots are qualified to vote and to count and tally the votes of those determined to be qualified.

The Whatcom County Council will meet on November 3, 2014, to canvass the returns. If it appears that at least two-thirds of all votes cast are in favor of the district, the Council shall by order declare the district duly organized and shall declare the qualified persons receiving the highest number of votes to be duly elected directors and shall cause a certified copy of the order to be filed for record in the offices of the County Auditor and Assessor.
Resolution accepting petition and poll book and order election for Laurel WID

**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 accepting the petition and poll book, establishing boundaries, and ordering an election to determine formation of a proposed irrigation district in Whatcom County to be known as the Laurel Watershed Improvement District. Per 87.03 RCW, this resolution orders an election to determine if an irrigation district (to be known as the Laurel Watershed Improvement District) will be formed, sets the boundaries for the district, and approves the election process to be followed. At the hearing, council will receive evidence and may adjourn the hearing from time to time as necessary to gather additional information, not to exceed four weeks in all. After the hearing, the council will establish and define the boundaries of the district in order to "best reclaim the lands involved". Defining the boundaries is the council's main function in the process. The council must leave it to the voters to decide whether the district will be formed. The council can't modify the boundaries to exempt any territory already included in the boundaries if that territory is "suscpective of irrigation by the same system of works applicable to other lands in such proposed district and for which a water supply is available." Lands that will not benefit from inclusion in the district may be exempted. Property may be added to the district boundaries if it is shown that it will benefit from being included in the district.

**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.
RESOLUTION NO. __________

ACCEPTING PETITION AND POLL BOOK, ESTABLISHING BOUNDARIES, AND ORDERING AN ELECTION TO DETERMINE FORMATION OF A PROPOSED IRRIGATION DISTRICT IN WHATCOM COUNTY TO BE KNOWN AS THE LAUREL WATERSHED IMPROVEMENT DISTRICT

WHEREAS, on July 23, 2014, a petition was filed with the Whatcom County Council Office requesting that necessary steps be taken to organize an irrigation district in Whatcom County to be known as the Laurel Watershed Improvement District; and

WHEREAS, the petition met the requirements for a complete petition as outlined in State law; and

WHEREAS, on August 5, 2014, the Whatcom County Council was officially notified that the petition had been filed and the required bond in a sum double the amount of the estimated cost of forming the proposed district had been received; and

WHEREAS, the Council's role in the district formation process is to formally accept the petition and bond, establish the boundaries of the proposed district, establish the district’s name, and call for an election of the property owners residing within the proposed district boundaries to determine whether the district shall be formed and who shall serve on the district’s board of directors.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the proposed irrigation district shall be known as the Laurel Watershed Improvement District.

BE IT FURTHER RESOLVED that the petition requesting the organization of the Laurel Watershed Improvement District is hereby accepted as presented.

BE IT FURTHER RESOLVED that the poll book, as presented, is hereby accepted and certified as being as accurate as possible using the most current data available from the Whatcom County Assessor’s Office.

BE IT FURTHER RESOLVED that the boundaries of the proposed district shall be as set forth in Exhibit A to this resolution.

BE IT FINALLY RESOLVED that an election shall be set and carried out in the manner detailed in Exhibit B to this resolution and an election date of October 23, 2014, is hereby set.

APPROVED this __________ day of ______________, 2014.

ATTEST

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY WASHINGTON

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
EXHIBIT A

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, is as follows:

Township 39 North, Range 2 East, Willamette Meridian (WM)
Section 9 - all parcels east of Nooksack River
Section 10 - excepting S½SE¼ and S¾NE¼SE¼
Section 11 - excepting W½SE¼
Section 13
Section 14 - E½, SE¼NW¼
Section 15 - W½, S¾NE¼, N¼SE¼
Section 16 - all parcels east of Nooksack River
Section 20 - all parcels east and south of Nooksack River in N½SE¼ and S½NE¼
Section 21 - excepting SE¼
Section 22 - N½N½
Section 23 - excepting SW¼NW¼ and SW¼SW¼
Section 24 - excepting NE¼
Section 25 - N½, W½NW¼SW¼
Section 26 - excepting S½S½

Township 39 North, Range 3 East, Willamette Meridian (WM)
Section 2 - S½SW¼
Section 3 - S½SE¼, SE¼SW¼, S¼NW¼SE¼
Section 7 - excepting N½NE¼ and that portion of the SW¼NE¼ lying N of the S 34 acres
Section 8 - excepting N½N½
Section 9 - excepting NW¼NW¼
Section 10 - N½, SE¼, N½NE¼SW¼, SE¼NE¼SW¼
Section 11 - W½SW¼
Section 14 - W½W½
Section 15 - NE¼, NE¼SE¼, N½NW¼SE¼, S½NW¼ excepting W½SW¼
Section 16 - excepting N½NE¼
Sections 17 - 18
Section 19 - NE¼NW¼, NW¼NE¼
Section 21 - N½

Excepting from all of the above described parcels the following:

- All lands within the City of Ferndale and Everson;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.
Parcels split by the legal description where the majority of the acres are outside the Legal Description for the district.
EXHIBIT B

THE ELECTION PROCESS

THE ELECTION:
The County Council is responsible for conducting the district’s formation election in a manner that is similar to the way future elections for directors of the district will be conducted. Voting will take place by mail. An election day of October 23, 2014, has been selected and ballots must be returned to the Council Office or postmarked by that date to be counted toward the election.

THE BALLOT:
A local printing company will be used to print the ballots, ballot envelopes, and instructions indicating how joint ownership and community property votes are cast as well, as a request to forward the ballot to the property owner if different from the person who receives it. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. Ballots will be coded to indicate how many votes each ballot is worth.

The ballot shall contain the following language:

“Irrigation District – YES”
“Irrigation District – NO”
The names of persons to be voted for as directors of the district.

To be counted in this election, ballots must conform to these requirements:
1. Voted ballots must be sealed and placed in a ballot envelope (provided) and the ballot envelope must be sealed in a return certification envelope (provided). The certification envelope will contain a “voter’s certification” and a “witness certification” on the back of the envelope as follows:

   **Voter’s Certification**

   I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a landowner within the proposed district who is 18 years or more of age, a citizen of the United States, a resident of the State of Washington, and hold title or evidence of title to assessable land in the proposed district. If the landowner is a corporation, I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a duly authorized agent for the purpose of voting on this election by the corporation.

   Signature ____________________________
   (Landowner/Voter)
   Print Name ____________________________
   (Landowner/Voter)
   City & State where signed ____________________________
   Date   Signed ____________________________

   **Witness Certification**

   I certify as true, under penalty of perjury under the laws of the State of Washington, that I am acquainted with the above voter and the voter’s signature above was affixed in my presence.

   Signature ____________________________
   (Witness)
   Print Name ____________________________
   (Witness)
   City & State where signed ____________________________
   Date ____________________________

2. Both the “voter’s certification” and the “witness certification” must completed and signed as indicated. Unsigned and/or unwitnessed ballots will not be counted.
3. Ballots must be hand delivered to the Council Office prior to 4 p.m. on October 23, 2014; or mailed to the Clerk of the Council, postmarked no later than midnight on October 23, 2014, and received by the Clerk of the Council within five days of that date.

Ballots will be kept unopened and secure under the responsibility of the Clerk of the Council until the time in which ballots may be received is closed. The Council appoints the Clerk of the Council and assigned staff, with assistance from the Whatcom County Auditor as available, to proceed at once to determine whether the voters submitting ballots are qualified to vote and to count and tally the votes of those determined to be qualified.

The Whatcom County Council will meet on November 3, 2014, to canvass the returns. If it appears that at least two-thirds of all votes cast are in favor of the district, the Council shall by order declare the district duly organized and shall declare the qualified persons receiving the highest number of votes to be duly elected directors and shall cause a certified copy of the order to be filed for record in the offices of the County Auditor and Assessor.
Resolution accepting petition and poll book ordering election for S. Lynden WID

Resolution accepting petition and poll book ordering election for S. Lynden WID. This resolution orders an election to determine formation of a proposed irrigation district in Whatcom County to be known as the South Lynden Watershed Improvement District. Per 87.03 RCW, this resolution orders an election to determine if an irrigation district (to be known as the South Lynden Watershed Improvement District) will be formed, sets the boundaries for the district, and approves the election process to be followed. At the hearing, council will receive evidence and may adjourn the hearing from time to time as necessary to gather additional information, not to exceed four weeks in all. After the hearing, the council will establish and define the boundaries of the district in order to "best reclaim the lands involved". Defining the boundaries is the council's main function in the process. The council must leave it to the voters to decide whether the district will be formed. The council can't modify the boundaries to exempt any territory already included in the boundaries if that territory is "susceptible of irrigation by the same system of works applicable to other lands in such proposed district and for which a water supply is available." Lands that will not benefit from inclusion in the district may be exempted. Property may be added to the district boundaries if it is shown that it will benefit from being included in the district.
RESOLUTION NO. ________

ACCEPTING PETITION AND POLL BOOK, ESTABLISHING BOUNDARIES, AND ORDERING AN ELECTION TO DETERMINE FORMATION OF A PROPOSED IRRIGATION DISTRICT IN WHATCOM COUNTY TO BE KNOWN AS THE SOUTH LYNDEN WATERSHED IMPROVEMENT DISTRICT

WHEREAS, on July 23, 2014, a petition was filed with the Whatcom County Council Office requesting that necessary steps be taken to organize an irrigation district in Whatcom County to be known as the South Lynden Watershed Improvement District; and

WHEREAS, the petition met the requirements for a complete petition as outlined in State law; and

WHEREAS, on August 5, 2014, the Whatcom County Council was officially notified that the petition had been filed and the required bond in a sum double the amount of the estimated cost of forming the proposed district had been received; and

WHEREAS, the Council's role in the district formation process is to formally accept the petition and bond, establish the boundaries of the proposed district, establish the district's name, and call for an election of the property owners residing within the proposed district boundaries to determine whether the district shall be formed and who shall serve on the district's board of directors.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the proposed irrigation district shall be known as the South Lynden Watershed Improvement District.

BE IT FURTHER RESOLVED that the petition requesting the organization of the South Lynden Watershed Improvement District is hereby accepted as presented.

BE IT FURTHER RESOLVED that the poll book, as presented, is hereby accepted and certified as being as accurate as possible using the most current data available from the Whatcom County Assessor's Office.

BE IT FURTHER RESOLVED that the boundaries of the proposed district shall be as set forth in Exhibit A to this resolution.

BE IT FINALLY RESOLVED that an election shall be set and carried out in the manner detailed in Exhibit B to this resolution and an election date of October 23, 2014, is hereby set.

APPROVED this ________ day of ______________, 2014.

ATTEST

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY WASHINGTON

Dana Brown-Davis, Clerk of the Council

CARL WEIMER, COUNCIL CHAIR

CIVIL DEPUTY PROSECUTOR

APPROVED AS TO FORM:

466
EXHIBIT A

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, is as follows:

Township 40 North, Range 2 East, Willamette Meridian (WM)

Section 34 - all parcels south and east of Nooksack River
Section 35 - all parcels south and east of Nooksack River
Section 36 - all parcels south and east of Nooksack River

Township 40 North, Range 3 East, Willamette Meridian (WM)

Section 3 - SE¼SE¼, SE¼NE¼SE¼
Section 10 - SE¼, SE¼NW¼, NE¼
Section 11 - NW¼, SW¼, W½SE¼
Section 14 - W½, SE¼
Section 15 - excepting NW¼
Section 20 - all parcels south of Nooksack River and east of Hannegan Road
Sections 21 - 22
Section 23 - excepting E½NE¼
Sections 25-28
Section 29 - all parcels south and east of Nooksack River
Section 30 - all parcels south of Nooksack River
Sections 31-36

Township 39 North, Range 2 East, Willamette Meridian (WM)

Sections 1-2
Section 3 - all parcels east of Nooksack River

Township 39 North, Range 3 East, Willamette Meridian (WM)

Section 2 - NW¼, N½SW¼, W½SW¼NE¼, NW¼NE¼, N½NW¼NE¼NE¼, NE¼NE¼NE¼
Section 3 - excepting S½SE¼, S¼NW¼SE¼, SE¼SW¼
Sections 4 - 6
Section 7 - N½NE¼
Section 8 - N½NW¼

Excepting from all of the above described parcels the following:
- All lands within the City of Lynden and Everson;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.
  Parcels split by the legal description where the majority of the acres are outside the Legal Description for the district.
EXHIBIT B

THE ELECTION PROCESS

THE ELECTION:
The County Council is responsible for conducting the district’s formation election in a manner that is similar to the way future elections for directors of the district will be conducted. Voting will take place by mail. An election day of October 23, 2014, has been selected and ballots must be returned to the Council Office or postmarked by that date to be counted toward the election.

THE BALLOT:
A local printing company will be used to print the ballots, ballot envelopes, and instructions indicating how joint ownership and community property votes are cast as well, as a request to forward the ballot to the property owner if different from the person who receives it. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. Ballots will be coded to indicate how many votes each ballot is worth.

The ballot shall contain the following language:

“Irrigation District – YES”
“Irrigation District – NO”
The names of persons to be voted for as directors of the district.

To be counted in this election, ballots must conform to these requirements:

1. Voted ballots must be sealed and placed in a ballot envelope (provided) and the ballot envelope must be sealed in a return certification envelope (provided). The certification envelope will contain a “voter’s certification” and a “witness certification” on the back of the envelope as follows:

   **Voter’s Certification**

   I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a landowner within the proposed district who is 18 years or more of age, a citizen of the United States, a resident of the State of Washington, and hold title or evidence of title to assessable land in the proposed district. If the landowner is a corporation, I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a duly authorized agent for the purpose of voting on this election by the corporation.

   Signature ____________________________________________
   (Landowner/Voter)
   Print Name ____________________________________________
   (Landowner/Voter)
   City & State where signed ________________________________
   Date Signed __________________________________________

   **Witness Certification**

   I certify as true, under penalty of perjury under the laws of the State of Washington, that I am acquainted with the above voter and the voter’s signature above was affixed in my presence.

   Signature ____________________________________________
   (Witness)
   Print Name ____________________________________________
   (Witness)
   City & State where signed ________________________________
   Date _________________________________________________
2. Both the “voter’s certification” and the “witness certification” must completed and signed as indicated. Unsigned and/or unwitnessed ballots will not be counted.

3. Ballots must be hand delivered to the Council Office prior to 4 p.m. on October 23, 2014; or mailed to the Clerk of the Council, postmarked no later than midnight on October 23, 2014, and received by the Clerk of the Council within five days of that date.

Ballots will be kept unopened and secure under the responsibility of the Clerk of the Council until the time in which ballots may be received is closed. The Council appoints the Clerk of the Council and assigned staff, with assistance from the Whatcom County Auditor as available, to proceed at once to determine whether the voters submitting ballots are qualified to vote and to count and tally the votes of those determined to be qualified.

The Whatcom County Council will meet on November 3, 2014, to canvass the returns. If it appears that at least two-thirds of all votes cast are in favor of the district, the Council shall by order declare the district duly organized and shall declare the qualified persons receiving the highest number of votes to be duly elected directors and shall cause a certified copy of the order to be filed for record in the offices of the County Auditor and Assessor.
TITLE OF DOCUMENT:
Resolution accepting petition and poll book and order election for Sumas W.I.D.

ATTACHMENTS:

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.)
Resolution accepting the petition and poll book, establishing boundaries, and ordering an election to determine formation of a proposed irrigation district in Whatcom County to be known as the Sumas Watershed Improvement District. Per 87.03 RCW, this resolution orders an election to determine if an irrigation district (to be known as the Sumas Watershed Improvement District) will be formed, sets the boundaries for the district, and approves the election process to be followed. At the hearing, council will receive evidence and may adjourn the hearing from time to time as necessary to gather additional information, not to exceed four weeks in all. After the hearing, the council will establish and define the boundaries of the district in order to "best reclaim the lands involved". Defining the boundaries is the council's main function in the process. The council must leave it to the voters to decide whether the district will be formed. The council can't modify the boundaries to exempt any territory already included in the boundaries if that territory is "susceptible of irrigation by the same system of works applicable to other lands in such proposed district and for which a water supply is available." Lands that will not benefit from inclusion in the district may be exempted. Property may be added to the district boundaries if it is shown that it will benefit from being included in the district.

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.
RESOLUTION NO. ______

ACCEPTING PETITION AND POLL BOOK, ESTABLISHING BOUNDARIES, AND ORDERING AN ELECTION TO DETERMINE FORMATION OF A PROPOSED IRRIGATION DISTRICT IN WHATCOM COUNTY TO BE KNOWN AS THE SUMAS WATERSHED IMPROVEMENT DISTRICT

WHEREAS, on July 23, 2014, a petition was filed with the Whatcom County Council Office requesting that necessary steps be taken to organize an irrigation district in Whatcom County to be known as the Sumas Watershed Improvement District; and

WHEREAS, the petition met the requirements for a complete petition as outlined in State law; and

WHEREAS, on August 5, 2014, the Whatcom County Council was officially notified that the petition had been filed and the required bond in a sum double the amount of the estimated cost of forming the proposed district had been received; and

WHEREAS, the Council’s role in the district formation process is to formally accept the petition and bond, establish the boundaries of the proposed district, establish the district’s name, and call for an election of the property owners residing within the proposed district boundaries to determine whether the district shall be formed and who shall serve on the district’s board of directors.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the proposed irrigation district shall be known as the Sumas Watershed Improvement District.

BE IT FURTHER RESOLVED that the petition requesting the organization of the Sumas Watershed Improvement District is hereby accepted as presented.

BE IT FURTHER RESOLVED that the poll book, as presented, is hereby accepted and certified as being as accurate as possible using the most current data available from the Whatcom County Assessor’s Office.

BE IT FURTHER RESOLVED that the boundaries of the proposed district shall be as set forth in Exhibit A to this resolution.

BE IT FINALLY RESOLVED that an election shall be set and carried out in the manner detailed in Exhibit B to this resolution and an election date of October 23, 2014, is hereby set.

APPROVED this ______ day of ____________, 2014.

ATTEST

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL

WHATCOM COUNTY WASHINGTON

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor
EXHIBIT A

A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, is as follows:

Township 41 North, Range 3 East, Willamette Meridian (WM)
Section 35 - SE\(^{1/4}\)SE\(^{1/4}\), E740'NE\(^{1/4}\)SW\(^{1/4}\)
Section 36 - E\(^{1/2}\), NW\(^{1/4}\)SW\(^{1/4}\), S\(^{1/2}\)SW\(^{1/4}\), N990'NE\(^{1/4}\)SW\(^{1/4}\)

Township 41 North, Range 4 East, Willamette Meridian (WM)
Sections 31-36

Township 41 North, Range 5 E, Willamette Meridian (WM)
Sections 31-32
Section 33 - N\(^{1/2}\), N\(^{1/2}\)NE\(^{1/4}\)SW\(^{1/4}\), NW\(^{1/4}\)SW\(^{1/4}\), NW\(^{1/4}\)SW\(^{1/4}\)SW\(^{1/4}\), N\(^{1/2}\)NW\(^{1/4}\)SE\(^{1/4}\), NW\(^{1/4}\)NE\(^{1/4}\)SE\(^{1/4}\)

Township 40 North, Range 3 East, Willamette Meridian (WM)
Section 1
Section 2 - excepting W\(^{1/2}\)NW\(^{1/4}\)
Section 11 - NE\(^{1/4}\), E\(^{1/2}\)SE\(^{1/4}\)
Section 12

Township 40 North, Range 4 East, Willamette Meridian (WM)
Sections 1-5
Section 6 - excepting S\(^{1/2}\)S\(^{1/2}\)
Sections 8-10
Section 11 - W\(^{1/2}\)W\(^{1/2}\), NE\(^{1/4}\)NE\(^{1/4}\), THAT PORTION OF NE\(^{1/4}\)NW\(^{1/4}\) AND NW\(^{1/4}\)NE\(^{1/4}\) AND SE\(^{1/4}\)NE\(^{1/4}\) LYING NORTHERLY of CMSPP RR RIGHT-OF-WAY
Section 12 - N\(^{1/2}\) EXCLUDING THAT PORTION DESCRIBED IN EXHIBIT A IN AF 2011203590 AND EXCLUDING THAT PORTION DESCRIBED IN AF 1117332
Section 14 - W\(^{1/2}\)NW\(^{1/4}\), NW\(^{1/4}\)SW\(^{1/4}\)
Section 15 - excepting SE\(^{1/4}\)SE\(^{1/4}\)
Sections 16-17
Section 18 - SE\(^{1/4}\)
Sections 19-20
Section 21 - all parcels west and north of Sumas River in NE\(^{1/4}\) and SW\(^{1/4}\), all parcels west and north of Alm Hill in NW\(^{1/4}\)
Section 28
Section 30
Section 31 - all parcels east of Nooksack River
Sections 32-33

Township 40 North, Range 5 East, Willamette Meridian (WM)
Section 5 - NW\(^{1/4}\), NW\(^{1/4}\)SW\(^{1/4}\), W\(^{1/2}\)NE\(^{1/4}\) excepting that portion of SW\(^{1/4}\)NE\(^{1/4}\) lying SE of a line drawn from SW corner to NE corner
Section 6 - excepting S\(^{1/2}\)SE\(^{1/4}\)SE\(^{1/4}\)
Section 7 - THAT PORTION OF NE\(^{1/4}\)NW\(^{1/4}\) Lying NORTHERLY OF THE FOOT OF THE MOUNTAIN, GOVT LOTS 1-2 EXCEPT THAT PORTION CONVEYED TO MINNIE CLIFTON BY DEED RECORDED VOL 124 OF DEEDS PG 406.

Township 39 North, Range 4 East, Willamette Meridian (WM)
Section 3- SW\(^{1/4}\)SW\(^{1/4}\)
Section 4- excepting NE\(^{1/4}\)
Section 5
Section 6 - ALL PARCELS EAST OF THE MOST EASTERLY MEANDER LINE OF NOOKSACK RIVER
Section 8
Section 9 - N\(^{1/2}\)
Section 16 - excepting E\(^{1/2}\)SE\(^{1/4}\) and NE\(^{1/4}\) and N\(^{1/4}\)NW\(^{1/4}\)
Section 17 - all parcels east of Nooksack River in SE\(^{1/4}\) and NE\(^{1/4}\)
Section 21 - all parcels east of Nooksack River in NW\(^{1/4}\), NE\(^{1/4}\), N\(^{1/2}\)NW\(^{1/4}\)SE\(^{1/4}\), E\(^{1/2}\)SE\(^{1/4}\)
Section 22 - W\(^{1/2}\)NW\(^{1/4}\), SW\(^{1/4}\), W\(^{1/2}\)SE\(^{1/4}\)

Excepting from all of the above described parcels the following:
- All lands within the City of Everson, Nooksack, and Sumas;
- All parcels less than four and one-half acres in size;
- All tax-exempt parcels;
- All parcels outside of Ag Open Space tax classification.

Parcels split by the legal description where the majority of the acres are outside the Legal Description for the district.
EXHIBIT B

THE ELECTION PROCESS

THE ELECTION:
The County Council is responsible for conducting the district’s formation election in a manner that is similar to the way future elections for directors of the district will be conducted. Voting will take place by mail. An election day of October 23, 2014, has been selected and ballots must be returned to the Council Office or postmarked by that date to be counted toward the election.

THE BALLOT:
A local printing company will be used to print the ballots, ballot envelopes, and instructions indicating how joint ownership and community property votes are cast as well, as a request to forward the ballot to the property owner if different from the person who receives it. Voting rights shall be allocated as follows: Two votes for each five acres of assessable land or fraction thereof. Ballots will be coded to indicate how many votes each ballot is worth.

The ballot shall contain the following language:

“Irrigation District – YES”
“Irrigation District – NO”
The names of persons to be voted for as directors of the district.

To be counted in this election, ballots must conform to these requirements:

1. Voted ballots must be sealed and placed in a ballot envelope (provided) and the ballot envelope must be sealed in a return certification envelope (provided). The certification envelope will contain a “voter’s certification” and a “witness certification” on the back of the envelope as follows:

Voter’s Certification

I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a landowner within the proposed district who is 18 years or more of age, a citizen of the United States, a resident of the State of Washington, and hold title or evidence of title to assessable land in the proposed district. If the landowner is a corporation, I certify as true, under penalty of perjury under the laws of the State of Washington, that I am a duly authorized agent for the purpose of voting on this election by the corporation.

Signature ____________________________
(Landowner/Voter)
Print Name ____________________________
(Landowner/Voter)
City & State where signed ____________________________
Date Signed ____________________________

Witness Certification

I certify as true, under penalty of perjury under the laws of the State of Washington, that I am acquainted with the above voter and the voter’s signature above was affixed in my presence.

Signature ____________________________
(Witness)
Print Name ____________________________
(Witness)
City & State where signed ____________________________
Date ____________________________
2. Both the “voter’s certification” and the “witness certification” must completed and signed as indicated. Unsigned and/or unwitnessed ballots will not be counted.

3. Ballots must be hand delivered to the Council Office prior to 4 p.m. on October 23, 2014; or mailed to the Clerk of the Council, postmarked no later than midnight on October 23, 2014, and received by the Clerk of the Council within five days of that date.

Ballots will be kept unopened and secure under the responsibility of the Clerk of the Council until the time in which ballots may be received is closed. The Council appoints the Clerk of the Council and assigned staff, with assistance from the Whatcom County Auditor as available, to proceed at once to determine whether the voters submitting ballots are qualified to vote and to count and tally the votes of those determined to be qualified.

The Whatcom County Council will meet on November 3, 2014, to canvass the returns. If it appears that at least two-thirds of all votes cast are in favor of the district, the Council shall by order declare the district duly organized and shall declare the qualified persons receiving the highest number of votes to be duly elected directors and shall cause a certified copy of the order to be filed for record in the offices of the County Auditor and Assessor.
**TITLE OF DOCUMENT:**
Aptt of one councilmember to the Chamber of Commerce & Industry as a liaison

**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.)
Appointment of one councilmember to the Bellingham/Whatcom Chamber of Commerce & Industry Board of Directors as a liaison

**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).*
July 18, 2014

Whatcom County Council
Whatcom County
311 Grand Ave
Bellingham, WA 98225

To Council members:

On behalf of the Board of Directors of the Bellingham/Whatcom Chamber of Commerce & Industry, we would like to formally request a council person of your choosing to represent the Whatcom County Council on our Board of Directors as a liaison.

We value the relationship between the County and the Chamber. This addition would allow each organization to be informed of the other. This position would be a non-voting position to protect the interests of the County as well as provide a line of separation for the Councilmember.

Currently our Board meetings are the 3rd Friday of the month at Noon.

Please reply back to me at your earliest convenience and we will add the councilmember to our roster and distribution list.

Thank you and I look forward to collaboratively strengthening the relationship between the Chamber and the County.

Best Regards.

Guy Occhiogrosso
President & CEO
Bellingham Whatcom Chamber of Commerce & Industry
**TITLE OF DOCUMENT:** Appointment to the Point Roberts Community Advisory Committee.

**ATTACHMENTS:** Application

**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 John Lesow to the Point Roberts Community Advisory Committee.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: **JOHN LESOW**
Date: **JAN 14, 2014**

Street Address: **317 MADRONA PLACE**
City: **POINT ROBERTS WA**
Zip Code: **98281-9104**

Mailing Address (if different from street address): **SAME**

Day Telephone: **360-945-3170**
Evening Telephone: **SAME**
Cell Phone: **604-314-6622**

E-mail address: **jlesow@whidbey.net**

1. Name of board or committee—please see reverse:
   **Point Roberts Advisory Committee**
   **Representative**

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.) ( ) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ( ) yes ( ) no

6. Are you registered to vote in Whatcom County? ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes ( ) no

   If yes, dates: **W/H**

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.

   - Western Territory Manager - Cascade Canada (34 years; retired 1/6)
   - Bachelor of Sciences, Business, Indiana University (1969)
   - Whatcom County Planning Commission, 2004-2012 - Commissioner, District 3
   - Whatcom Humane Society - Board of Directors, 1997-1999
   - OSS Appeals Board - 2001-2003
   - Board of Directors - Point Roberts Registered Voters - 1994-1995
   - Board of Directors - Point Roberts Taxpayers - 1996-1997

10. Please describe why you're interested in serving on this board or commission:

   **REPRESENT THE INTERESTS OF THE POINT ROBERTS CONSERVATION SOCIETY**

References (please include daytime telephone number): **JOE YAVER (RESPONSIBLE DEVELOPMENT) 360-738-8649**
**SHEFF FLEETWOOD (560) 671-3299 (LAWYER)**

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.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**TITLE OF DOCUMENT:** Appointments to the Whatcom County Commission on Salaries for Elected Officials, in accordance with WCC Chapter 2.22

**ATTACHMENTS:** Commission Representation List; Applications for Appointment; Ord. #2012-008

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<th>( X ) NO</th>
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<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( X ) NO</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.)

County Executive Jack Louws recommends the confirmation of his appointments (per the attached List) to the Whatcom County Commission on Salaries for Elected Officials (Salary Commission).

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>Ordinance or Resolution Number:</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.
Whatcom County Commission on Salaries
For Elected Officials
(“Salary Commission”)

Members chosen and appointed by County Executive (*reappointed to 2nd term):

<table>
<thead>
<tr>
<th>Name</th>
<th>Area of Expertise</th>
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<tr>
<td>Brian Lydiard</td>
<td>Business</td>
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<tr>
<td>Kara Turner *</td>
<td>Professional Personnel Management</td>
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<td>Robert Carmichael *</td>
<td>Legal Profession</td>
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<tr>
<td>Allan Jensen *</td>
<td>Organized Labor</td>
</tr>
</tbody>
</table>

Members selected by lot by the County Auditor (per Ordinance, attached) and appointed (*or reappointed to 2nd term) by County Executive:

**District #1**
Kristi Birkeland; Thom A. Fischer*

**District #2**
Mike Arbiter; George J. Plucinski*

**District #3**
Jesse Berg; Pete Schroeder
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Brian Limardo
Street Address: 1463 Green Cove Lane
City: Bellingham
Mailing Address (if different from street address): 
Day Telephone: 360-364-1177 Evening Telephone: 560-671-4534 Cell Phone: 
E-mail address: BrianLimardo@Gmail.com

Date: 7/12/14
Zip Code: 98229

1. Name of board or committee—please see reverse: 
   Salaries Commission

2. You must specify which position you are applying for. 
   Please refer to vacancy list.
   Salaries Commission — Business

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.

   Financial Advisor
   Member of Boy Scouts of America and Bellingham Community
   Coterie
   Life member of Washington Fire Commission

10. Please describe why you’re interested in serving on this board or commission: [Your answer]

References (please include daytime telephone number):

   Mike Hudson ( ) 9703
   Dave Francisco 256-0354

Signature of applicant: [Signature]

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: KARA TURNER
Street Address: 441 E. WISER LAKE ROAD
City: LYNDEN, WA
Mail Address (if different from street address): N/A
Date: 5-27-14
Zip Code: 98264

Day Telephone: 365-1937
Evening Telephone: 365-1937
Cell Phone: 739-5531
E-mail address: Kara@turnerhrservices.com

1. Name of board or committee-please see reverse: SALARY COMMISSION
2. You must specify which position you are applying for. Please refer to vacancy list.
   COMMITTEE MEMBER

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: 2013

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: Owner, Turner HR Services
   Conduct HR Training with Whatcom County.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   Past Salary Commission committee member, 2013
   26 Years Human Resources work in both private
   and public sector. Conduct work in
   Compensation field.

   Please

10. Please describe why you’re interested in serving on this board or commission: Interested in

   volunteering my professional services for community.

References (please include daytime telephone number):

Signature of applicant: Kara Turner

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Kara Turner, PHR  
Turner HR Services, Inc.  
www.turnerhrservices.com  
441 E. Wiser Lake Road  
Lynden, WA 98264  
(360) 354-1937

Education  
Bachelor of Arts in Business Administration at Western Washington University,  
Minor: Speech Communications

Certifications  

Work Experience  


Manager of Human Resources, Whatcom Transportation Authority, Bellingham, Wa., 2/91-9/99. Developed and managed a full range of human resources programs, including recruitment and selection, policy development and administration, employee compensation and benefits, training and development, employee and labor relations, and disciplinary oversight. Project lead in contract negotiations and administration of collective bargaining agreements.

Personnel Manager, Target Stores, Bellingham, Wa., 8/88-2/91. Managed the implementation of human resources programs within store, including recruitment and selection, payroll and benefits administration, training and development, employee relations and disciplinary oversight. Supervised Human Resources Assistant and receptionist personnel.

Professional Activities  
Whatcom County Salary Commission, 2013  
Administrative Board Chair, Sonlight Church, 2009-2012  
Friends of LCS, Board Member & President, 2005-2009  
Lorman Education Services Instructor, 2007-2008  
Society of Human Resources Management (SHRM), Mt. Baker Chapter, General Member (1988-Present), Board Member & President (2000-2005)  
NHRMA Distinguished Professional Service Award, 1999  
Public Employees Training Consortium Member, 1991-1999  
Regional Public Employees Labor Committee, 1991-1999  
HR Certification Exam Item Writer, 1997  
Special Olympics Area Management Team, 1992-1994
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Robert A. Carmichael
Street Address: 1700 D Street
City: Bellingham
Date: 5/8/2014
Zip Code: 98225
Mailing Address (if different from street address): P.O. Box 5226, Bellingham, 98227
Day Telephone: 647-1500
Evening Telephone: 676-4187
Cell Phone: 961-5876
E-mail address: bob@zenderthurston.com

1. Name of board or committee-please see reverse: Salary Commission
2. You must specify which position you are applying for. Legal Profession Vacancy
   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: 1/1/13 - 12/31/14
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.
   ______________________________________________________________________________________
   ______________________________________________________________________________________
   ______________________________________________________________________________________
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   ______________________________________________________________________________________
   ______________________________________________________________________________________
10. Please describe why you’re interested in serving on this board or commission:
    ______________________________________________________________________________________
    Asked by County Executive
    References (please include daytime telephone number):
    ______________________________________________________________________________________
    ______________________________________________________________________________________
    ______________________________________________________________________________________
    ______________________________________________________________________________________
    ______________________________________________________________________________________
    Signature of applicant: [Signature]

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Allan L. Jensen
Street Address: 7168 Ashley Court
City: Ferndale
Date: 5/12/2014
Zip Code: 98248

Mailing Address (if different from street address): 

Day Telephone: 360-731-8619 Evening Telephone: 360-384-5919 Cell Phone: 360-731-1269

E-mail address: ajen@comcast.net

1. Name of board or committee - please see reverse: 

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? ( ) One ( ) Two (x) 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: 2012

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 (x) no

If yes, please explain:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

Emeryco - Detectives - Bellingham Police Dept. 
1st Vice President - Bellingham Police Guild

10. Please describe why you're interested in serving on this board or commission: I served on the commission in 2012 and would like to serve a second term

References (please include daytime telephone number):

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.
ORDINANCE NO. 2012-008

ESTABLISHING WHATCOM COUNTY CODE SECTION 2.22, CREATING THE WHATCOM COUNTY COMMISSION ON SALARIES FOR ELECTED OFFICIALS

WHEREAS, on July 26, 2011, the Whatcom County Council adopted Ordinance 2011-026, submitting a proposed Charter amendment to the voters of Whatcom County to create a citizens’ commission to review and set salaries for county elected officials; and

WHEREAS, the voters of Whatcom County approved the proposed Charter amendment at the November 2011 General Election; and

WHEREAS, the voter-approved Charter amendment requires that the Whatcom County Council establish by ordinance and in accordance with law an independent citizens’ commission on salaries for elected officials which shall fix the salaries for the county council, executive, assessor, auditor, prosecuting attorney, sheriff and treasurer.

NOW, THEREFORE, BE IT ORDAINED that the Whatcom County Council hereby establishes Whatcom County Code 2.22, creating the Whatcom County Commission on Salaries for Elected Officials as outlined in "Exhibit A" to this ordinance.

ADOPTED the 28th day of February, 2012.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Kathy Kershner, Council Chair

(Approved) ( ) Denied

Jack Louws, County Executive

Date: 3/6/12

APPROVED AS TO FORM:

Dana Brown, County Clerk

Civil Deputy Prosecutor
EXHIBIT A

(ORDINANCE ESTABLISHING COMMISSION ON SALARIES FOR ELECTED OFFICIALS)

CHAPTER 2.22
WHATCOM COUNTY COMMISSION ON SALARIES FOR ELECTED OFFICIALS

Sections:

2.22.010 Established.
2.22.020 Purpose.
2.22.030 Duties.
2.22.040 Membership – Term of office.
2.22.050 Meetings and operation.
2.22.060 Compensation.
2.22.070 Referendum.

2.22.010 Established.
The Whatcom County Commission on Salaries for Elected Officials is hereby established as an independent county commission.

2.22.020 Purpose.
The purpose of the commission is to fix the salaries of the county council, executive, assessor, auditor, prosecuting attorney, sheriff, and treasurer in accordance with this chapter, the county charter, and state law. The commission shall study the relationship of salaries to the duties of the elected officials and fix the salary for each position. Except as provided in this chapter, the commission shall be solely responsible for its own organization, and shall enjoy the fullest cooperation of all elected officials, departments, and agencies of the county.

2.22.030 Duties.
(1) The commission shall prepare a schedule of salaries for elected officials for the succeeding two calendar years and file the schedules with the county council and county auditor no later than May 1, 2013, and no later than May 1 every two years thereafter. The chair of the commission shall sign each salary schedule filed by the commission, certifying that the schedules have been prepared and filed in accordance with the provisions of this chapter, Whatcom County Charter Section 6.100, and the rules, if any, of the commission.

(2) Except as provided in subsection (3) of this section, the salary schedules prepared and filed by the commission in accordance with this section shall become effective January 1 of the following calendar year. The salary schedules will be incorporated into the county budget without further action by the county council, county executive, or commission, provided that salary decreases established by the commission shall become effective as to incumbent elected officials at the commencement of their next subsequent term of office. Salary increases established by the commission shall become effective for all elected officials regardless of their terms of office.

(3) Salary increases and decreases shall be subject to referendum as provided in Whatcom County Code 2.22.080 and sections 5.50 and 5.60 of the Whatcom County Charter.
2.22.040 Membership – Term of office.

(1) The commission shall consist of ten members. Six members shall be selected by lot and appointed and confirmed as provided in subsection (2) of this section. The remaining four members shall be appointed and confirmed as provided in subsection (3) of this section. The members of the commission may not include any officer, official, or employee of the county or any of their immediate family members. For the purposes of this section, "immediate family member" means parent, spouse, domestic partner, sibling, child, or dependent relative of an officer, official, or employee of the county, whether or not living in the same household.

(2) Six of the ten commission members shall be selected by lot by the county auditor from among those registered voters eligible to vote at the time persons are selected for appointment to full terms on the commission. Of these six commission members, two shall be selected from each county council district established under Whatcom County Code 1.12. The county auditor shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection if a person declines appointment or if, following the person's appointment, the person's position on the commission becomes vacant before the end of the person's term of office. The county auditor shall forward the names of persons selected under this subsection to the county executive who shall appoint those persons to the commission. Appointments made by the county executive shall be confirmed by the county council.

(3) Four of the ten commission members shall be selected and appointed by the county executive and confirmed by the county council. The members under this subsection shall be residents of the county and shall all have experience in personnel management. Of these four members, one member shall be selected from each of the following fields of expertise: business, professional personnel management, legal profession, and organized labor. The county council may confirm or reject appointments made under this subsection. If the council rejects an appointment the county executive shall promptly appoint another person meeting the requirements of this subsection.

(4) The members of the commission shall serve two-year terms, with their terms ending on December 31, 2014. Thereafter, all members shall serve for two years. No person may be appointed to more than two terms. Members of the commission may be removed by the county executive, with the approval of the county council, only for cause of incapacity, incompetence, neglect of duty, malfeasance in office, or for a disqualifying change of eligibility. Upon a vacancy in any position on the commission, a successor shall be appointed and confirmed to fill the unexpired term. The appointment and confirmation shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as the original appointment.

2.22.050 Meetings and operation.

(1) All business of the commission shall be subject to the Open Public Meetings Act, Chapter 42.30 RCW. The commission shall meet biennially as provided in Whatcom County Charter Section 6.100. However, the commission may meet as frequently as it deems necessary.

(2) The members of the commission shall elect a chair from among its members.

(3) The county executive shall provide clerical support for the commission from available county staff.
2.22.070 Compensation.
Members of the commission shall serve without compensation, but may receive reimbursement for mileage to and from meetings and for such other expenses directly related to their service if approved by the county executive.

2.22.080 Referendum.
(1) Salary changes fixed by the commission shall be subject to referendum in the same manner as a county ordinance except as otherwise provided in RCW 36.17.024. Referendum petitions shall be prepared and processed in accordance with Whatcom County Charter Section 5.60, except that pursuant to RCW 36.17.024 referendum proposals must be filed with the county auditor within thirty days after filing of the salary schedules.

(2) After the filing of a referendum petition the salary changes shall be suspended until approved by the voters as provided in Whatcom County Charter Section 5.60. If the voters fail to approve the salary changes for a two year biennium the commission may prepare and file a schedule of salaries for the second year of the biennium no later than May 1 of the first year of the biennium, which shall be prepared and filed and take effect as provided in Whatcom County Code 2.22.030.
## WHATCOM COUNTY COUNCIL AGENDA BILL

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**Executive:** 9/8/14

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**TITLE OF DOCUMENT:** A Resolution Declaring the Whatcom County Flood Control Zone District Intention to Lease Property on River Road

**ATTACHMENTS:**
1. Cover Memo
2. Resolution
3. Map

**SEPA review required?**
- Yes ( )
- No (X)

**SEPA review completed?**
- Yes ( )
- No (X)

**Should Clerk schedule a hearing?**
- Yes (X)
- No ( )

**Requested Date:**

---

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

In accordance with RCW 36.34, the Whatcom County Flood Control Zone District (FCZD) intends to lease the property located on River Road for agricultural use. The FCZD Board of Supervisors will act on a resolution to lease the land to the highest responsible bidder who can demonstrate their ability to comply with the conditions for use described in the resolution. If the resolution is approved, bids will be received at the River and Flood office located at 322 N. Commercial Street, Suite 120, until 2:00 pm on October 30, 2014.

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**COMMITTEE ACTION:**

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**COUNCIL ACTION:**

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**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

---

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

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

Through: Frank M. Abart, Director

From: Andrew Hester, Public Works Real Estate Coordinator

Date: September 3, 2014

Re: Leasing of Whatcom County Flood Control Zone Property

Enclosed is a resolution declaring the intent of the Whatcom County Flood Control Zone District (FCZD) to lease property located on River Road for agricultural purposes, subject to a public hearing.

Requested Action
Public Works respectfully requests that the FCZD Board of Supervisors hold a public hearing and take action on the proposed resolution to lease the property for agricultural purposes, and authorize the Whatcom County Executive to execute a lease agreement with the highest responsible bidder that can demonstrate their ability to comply with the conditions contained in the resolution.

Background and Purpose
The FCZD acquired the property from the Washington State Department of Natural Resources in 2008. The property was leased at that time and the FCZD became the lessor of that lease. The lease is set to expire on November 30, 2014. Whatcom County Public Works is supportive of continuing to lease the property for agricultural purposes as long as it is subject to the limitations described in the attached resolution.

Resolution and Bid Process
Should the Board of Supervisors approve the proposed resolution to lease the property, bids will be received at the Public Works River & Flood Division office until 2:00 pm on October 30, 2014, at which time they will be opened. The highest responsible bidder who can demonstrate their ability to comply with the limitations on use will be awarded the lease.

Please contact me at extension 50571 or Paula Cooper at 50625 if you have any questions or concerns regarding the terms of this resolution.

Encl.
RESOLUTION NO. ______

A RESOLUTION DECLARING THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT INTENTION TO LEASE PROPERTY ON RIVER ROAD

WHEREAS, the Whatcom County Flood Control Zone District (FCZD) owns property located on River Road, which was purchased from the Washington State Department of Natural Resources in 2008; and

WHEREAS, at the time the property was purchased, the property was leased and FCZD became the lessor of that lease; and

WHEREAS, the lease expires on November 30, 2014; and

WHEREAS, Whatcom County Public Works is supportive of continuing to lease the property for agricultural purposes; and

WHEREAS, in accordance with RCW 86.15.080, a FCZD may lease surplus lands in a manner consistent with RCW 36.34; and

WHEREAS, it has been determined that the fair market rental value of the property should not be less than $2,800 per year, plus applicable leasehold tax; and

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the FCZD Board of Supervisors to lease the following property described in Exhibit A for a minimum of $2,800 per year, plus leasehold tax,

SUBJECT TO the conditions described in Exhibit B.

BE IT FURTHER RESOLVED that sealed bids for lease of this property shall be received at the Whatcom County Public Works River and Flood Division office located at 322 N. Commercial Street, Suite 120, no later than 2:00 pm on October 30th; said bids will be opened at that time.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the County Executive to act on its behalf in executing a lease agreement with the highest responsible bidder that can demonstrate his/her ability to comply with the conditions set forth in Exhibit B.
BE IT FURTHER RESOLVED that if no lease is fully executed within six months from
the date of the passage of this Resolution, the authorization to lease shall be withdrawn.

APPROVED this ____ day of ____________, 2014

ATTEST:

Dana Brown-Davis, County Clerk

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Daniel Gibson

Chief Civil Deputy Prosecutor
EXHIBIT A

Whatcom County Tax Parcel Number 400236 190361 0000

Government Lot 6 of Section 36, Township 40 North, Range 2 East,
Willamette Meridian, Whatcom County, Washington.
EXHIBIT B

LIMITATIONS ON USE:

1. No fill can be brought into the property. Minor land grading of the property to make it level and farmable is permissible.

2. No structures can be constructed on the property.

3. Only grasses or annual crops are allowed, with winter cover crop required if annual crop is used.

4. Grazing of animals on the property is not allowed.

5. Farmer must have a current farm plan following current NRCS standards and specifications (may be applied for when all the parties sign the lease).

6. Application of commercial fertilizer and manure are allowed only if they are included in the farm plan and application methods and timing are in accordance with that plan.

7. All activities, including application of manure, must be done in accordance with all applicable federal, state and local rules and regulations.

Lease Term: The maximum term of the lease is 5 years.

Bid Response: Bidders should submit the following information as part of their bid response:

1. Bid amount for annual rental of land. Do not include leasehold tax in your bid amount, as it will be calculated and applied separately upon the successful bid amount.

2. A statement of your understanding of the scope of the lease and the steps necessary to farm the land.

3. A brief outline of how you propose to manage the farmland if awarded the lease and a timetable for your farm plan.

4. Describe your ability to obtain insurance for your leasing for this project. Proof of insurance must be provided prior to final execution of the lease agreement. Insurance must include the following minimum coverages:

   a. General liability coverage $1,000,000 per occurrence

   b. Workers Compensation Coverage as required by the Industrial Insurance laws of the State of Washington.
Resolution adopting the Six-Year Water Resources Improvement Program (WRIP), 2015-2020

ATTACHMENTS:
- Memorandum
- Resolution
- Six-Year WRIP, 2015-2020
- Project Narratives

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

Should Clerk schedule a hearing? ( X ) Yes  ( ) No
Requested Date: September 30, 2014 (public hearing required under RCW 86.15.120)

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 2015-2020. The adoption by resolution is pursuant to the Revised Code of Washington (RCW 86.15.110).
MEMO

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

THROUGH: Frank M. Abart, Public Works Director

FROM: Gary Stoyka, Natural Resources Program Manager

DATE: September 3, 2014

RE: Six-Year Water Resources Improvement Program (WRIP), 2015-2020

Requested Action:
The Department of Public Works requests that the 2015-2020 Six-Year Water Resources Improvement Program (WRIP) resolution and its associated exhibits be introduced at the County Council/Flood Control Zone District meeting on September 16, 2014. We then request that a public hearing be advertised for and held at the September 30, 2014 County Council/Flood Control Zone District meeting, with the resolution potentially adopted at said meeting.

Background and Purpose:
Each year the County updates its Six-Year Water Resources Improvement Program (WRIP) in accordance with RCW 86.15.110.

Information:
Memorandum to County Executive and Council
Exhibit “A” – Resolution adopting the 2015-2020 Water Resources Improvement Program
Exhibit “B” – 2015-2020 Water Resources Improvement Program
Exhibit “C” – Project Narratives
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 2015 THROUGH 2020

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 2015 through 2020, which is attached hereto as Exhibit "A", is hereby adopted.

APPROVED this _____ day of __________, 2014.

Flood Control Zone District Board of Supervisors
WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis, Clerk of the Council

CARL WEIMER, CHAIR

Daniel L. Gibson, Chief Civil Deputy Prosecutor

APPROVED AS TO FORM:

Daniel L. Gibson, Chief Civil Deputy Prosecutor
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Academy Road/Sheri with CSO (CP-129) Pretreatment, media filter drain, surge media filter, high flow bypass, and vegetated buffer along lake front</td>
<td>07-067</td>
<td>PE</td>
<td>PE</td>
<td>50,000</td>
<td>CSO</td>
<td>PE</td>
<td>PE</td>
<td>50,000</td>
<td>PE</td>
<td>PE</td>
<td>CSO</td>
<td>PE</td>
<td>PE</td>
<td>CSO</td>
<td>PE</td>
<td>PE</td>
<td>CSO</td>
<td>$1,795,000</td>
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<tr>
<td>2</td>
<td>Cedar Hills/Island (CP-129-130) Install rain gardens, filter walls, and swales</td>
<td>07-066</td>
<td>PE</td>
<td>PE</td>
<td>75,000</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>20,000</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>PE</td>
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<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>$725,000</td>
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<tr>
<td>3</td>
<td>Agate Heights East/Sky Lane (CP-129-111) System upgrade to improve water quality (biotreatment swales, reduce ditch erosion)</td>
<td>07-022</td>
<td>PE</td>
<td>PE</td>
<td>60,000</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>20,000</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>$400,000</td>
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<td>4</td>
<td>Beaver Creek (CP-129-13) Reforest and repair eroded sections of Beaver Creek</td>
<td>13-061</td>
<td>PE</td>
<td>PE</td>
<td>2,000</td>
<td>PC2D</td>
<td>PE</td>
<td>PE</td>
<td>80,000</td>
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<td>PE</td>
<td>PE</td>
<td>PC2D</td>
<td>PE</td>
<td>PE</td>
<td>PC2D</td>
<td>$875,000</td>
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<td>5</td>
<td>Soldier Valley (CP-129-16, CS-17) Drainage systems upgrades and outfall restrictions</td>
<td>13-064</td>
<td>PE</td>
<td>PE</td>
<td>30,000</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>50,000</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>$840,000</td>
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<tr>
<td>6</td>
<td>Silver Beach Creek (CP-129-16, CS-16) Multi channel restoration below tidelands using natural vegetation</td>
<td>07-099</td>
<td>PE</td>
<td>PE</td>
<td>50,000</td>
<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>100,000</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
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<td>REET</td>
<td>PE</td>
<td>PE</td>
<td>REET</td>
<td>$750,000</td>
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<tr>
<td>7</td>
<td>Northshore Drive at E North Street. Design 2015, Construction 2015. System upgrade to improve water quality (biotreatment swales, reduce ditch erosion)</td>
<td>14-011</td>
<td>PE</td>
<td>PE</td>
<td>10,000</td>
<td>PW</td>
<td>PE</td>
<td>PE</td>
<td>10,000</td>
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<td>PW</td>
<td>PE</td>
<td>PE</td>
<td>PW</td>
<td>$200,000</td>
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<td>8</td>
<td>Lowell Drive and Carbonhouse Court. Design 2020, construction 2021. End of pipe media filtration and natural drainage system improvement</td>
<td>14-002</td>
<td>PE</td>
<td>PE</td>
<td>10,000</td>
<td>PW</td>
<td>PE</td>
<td>PE</td>
<td>10,000</td>
<td>PE</td>
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<td>PW</td>
<td>PE</td>
<td>PE</td>
<td>PW</td>
<td>$150,000</td>
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</table>

Notes:
1. Expenditures shown are planning level cost estimates. The Six-Year WRIP does not authorize expenditures.
2. PE = Preliminary Engineering; RW = Property Acquisition; Ch = Construction.
## 2015-2020 SIX-YEAR WATER RESOURCES IMPROVEMENT PROGRAM

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Estimate ID No.</th>
<th>Total 2020 Estimated</th>
<th>Revenue Financed</th>
<th>Total 2020 Estimated</th>
<th>Revenue Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>BIRCH BAY WILLOW</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Hathorne Road Culvert Replacement</td>
<td>07-217</td>
<td>$315,000</td>
<td></td>
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<tr>
<td>Cottolonge Drive Drainage Improvement</td>
<td>19-008</td>
<td>$167,000</td>
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<tr>
<td>Sewage/Storm Drainage Upgrade</td>
<td>19-006</td>
<td>$155,000</td>
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<tr>
<td>Collaborative Drainage System Repair- Birch Point (SR-03)</td>
<td>07-241</td>
<td>$1,275,000</td>
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<tr>
<td>Woodbridge Drive Drainage Improvements (CD-02)</td>
<td>19-007</td>
<td>$90,000</td>
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<tr>
<td>Small works projects: Central North, Cottolonge, Point Whitehorse, Tanglewood Area</td>
<td></td>
<td>$175,000</td>
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</table>

### BIRCH BAY DRIVE AND PEDESTRIAN FACILITY

<table>
<thead>
<tr>
<th>Project Description</th>
<th>Estimate ID No.</th>
<th>Total 2020 Estimated</th>
<th>Revenue Financed</th>
<th>Total 2020 Estimated</th>
<th>Revenue Financed</th>
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</thead>
<tbody>
<tr>
<td>Birch Bay Drive &amp; Pedestrian Project: Stormwater improvements</td>
<td>07-230</td>
<td>$111,420,000</td>
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</table>

### SWIFT CREEK

<table>
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<tr>
<th>Project Description</th>
<th>Estimate ID No.</th>
<th>Total 2020 Estimated</th>
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<th>Revenue Financed</th>
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<tbody>
<tr>
<td>Swift Creek Phase 2 Projects: Settlement Fines, Upper Goodwin Reach Select Leases,</td>
<td>16-010</td>
<td>$14,109,000</td>
<td></td>
<td></td>
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<tr>
<td>Miles Swarts, and Settlement Basins</td>
<td></td>
<td></td>
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<tr>
<td>Swift Creek Maintenance: Dredging and invasive plant control and maintenance</td>
<td>08-023</td>
<td>$1,475,000</td>
<td></td>
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</tr>
</tbody>
</table>

**Notes:**
1. Expenditure shown are planning level cost estimates. The Six-Year WRIP does not authorize expenditures.
2. PE = Preliminary Engineering; RW = Property Acquisition; CN = Construction.
| Item No. | Project Description | Database ID No. | BIS | Previous Expenditures | Phase | Amount | Source | 2015 | Phase | Amount | Source | 2016 | Phase | Amount | Source | 2017 | Phase | Amount | Source | 2018 | Phase | Amount | Source | 2019 | Phase | Amount | Source | 2020 | Phase | Amount | Source | Total |
|---------|--------------------|----------------|-----|-----------------------|-------|--------|--------|-------|-------|--------|--------|-------|--------|--------|--------|-------|--------|--------|--------|-------|--------|--------|--------|-------|--------|--------|--------|
| 19      | Marietta Acquisition – Acquire properties in repetitive flood loss area | 07-002 | 79.6 | PE | 125,000 | PE | $250,000 | FEMA Fed/State grant | RW | 500,000 | PE | $40,000 | PE | $120,000 | RW | $120,000 | RW | $120,000 | RW | $120,000 | Total through 2022: | $1,250,000 |
| 20      | Carson Creek Restoration – Levee setback and construction of 13 engineered log jams | 07-033 | 74.7 | PE | 100,000 | PE | 109,000 | FEMA Fed/State grant | RW | 500,000 | PE | 109,000 | PE | 109,000 | RW | 109,000 | RW | 109,000 | RW | 109,000 | Project Total: | $1,040,000 |
| 21      | Denning Levee Improvement – Rumble and improve upstream portion of levee to protect Denning | 07-035 | 72.1 | PE | 450,000 | PE | $150,000 | DEM | RW | 150,000 | RW | 150,000 | RW | 150,000 | RW | 150,000 | RW | 150,000 | RW | 150,000 | Project Total: | $1,350,000 |
| 22      | Jones Creek Delta Flow Restriction – Construct bifurcation bar and address local access | 07-035 | 70.6 | PE | 250,000 | PE | 300,000 | FEMA Fed/State grant | RW | 500,000 | PE | 300,000 | PE | 300,000 | RW | 1,500,000 | RW | 1,500,000 | RW | 1,500,000 | Jones Creek Total: | $3,000,000 |
| 23      | Lower Nooba Back Planning: SWIF and CRMP Update – Planning projects will result in lot of capital improvements and programmatic actions | 07-025 | 56.2 | PE | 150,000 | PE | 150,000 | FEMA Fed/State grant | RW | 500,000 | PE | 500,000 | PE | 500,000 | RW | 1,000,000 | RW | 1,000,000 | RW | 1,000,000 | Project Total: | $2,000,000 |
| 24      | High Creek – Recommended projects to address ongoing sedimentation | 07-025 | 57.1 | PE | 150,000 | PE | 150,000 | FEMA Fed/State grant | RW | 500,000 | PE | 500,000 | PE | 500,000 | RW | 1,000,000 | RW | 1,000,000 | RW | 1,000,000 | High Creek Total: | $2,000,000 |
| 25      | Sediment Management Pilot – Small-scale sediment removal to support sediment management strategy | 07-025 | 53.2 | PE | 150,000 | PE | 150,000 | FEMA Fed/State grant | RW | 500,000 | PE | 500,000 | PE | 500,000 | RW | 1,000,000 | RW | 1,000,000 | RW | 1,000,000 | Project Total: | $2,000,000 |
| 26      | City of Bellsgrove Scour Analysis – Flood Hazard Reduction | 13-009 | 62.4 | PE | 150,000 | PE | 150,000 | FEMA Fed/State grant | RW | 500,000 | PE | 500,000 | PE | 500,000 | RW | 1,000,000 | RW | 1,000,000 | RW | 1,000,000 | Project Total: | $2,000,000 |
| 27      | Emergency/New Projects – Typically repair projects that result from raw damage, as needed | G-003 | 88.1 | PE | 50,000 | PE | 50,000 | FEMA Fed/State grant | RW | 250,000 | PE | 250,000 | PE | 250,000 | RW | 500,000 | RW | 500,000 | RW | 500,000 | Project Total: | $1,500,000 |

**NOTES:**
- Numbers in italics are placeholders for projects still being evaluated.
- NA: Not Available.
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:
Expenditures to date include a $581,000 land acquisition purchase by the City of Bellingham. Preliminary engineering design is underway. Construction is expected during the summer of 2015 Lake Whatcom watershed work window.

Total Estimated Project Cost: $1,680,000
Expenditures to Date: $627,786
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 currently underway. Right-of-way acquisitions to occur sometime in 2014. Construction is slated for the summer of 2016 during the Lake Whatcom watershed work window.

Total Estimated Project Cost: $715,000
Expenditures to Date: $3,828
# 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. Construction is scheduled to take place in the summer of 2017 during the Lake Whatcom watershed work window.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$600,000</th>
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</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0-</td>
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</tbody>
</table>
Beaver Creek
Database ID No. 13-003

Construction Funding Year(s): 2018

Project Narrative:
Restore and repair eroded sections of Beaver Creek.

Project Status:
Preliminary engineering design is anticipated in 2016. Construction is scheduled for the summer of 2018 during the Lake Whatcom watershed work window.

Total Estimated Project Cost: $565,000
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. Construction will take place in the summer of 2019 during the Lake Whatcom watershed work window.

Total Estimated Project Cost: $640,000
Expenditures to Date: $0
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. Construction to take place in the summer of 2020 during the Lake Whatcom watershed work window.

Total Estimated Project Cost: $200,000 (2018, 2019 - Preliminary engineering)
$550,000 (2020 - Construction)

Expenditures to Date: $-0-
## Northshore Drive at E. North Street
**Database ID No. 14-007**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2021</th>
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**Project Narrative:**
System upgrades to improve water quality (bioinfiltration swales; reduce ditch erosion).

**Project Status:**

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$200,000 (Preliminary engineering, ROW)</th>
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<tbody>
<tr>
<td></td>
<td>$550,000 (Construction)</td>
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<table>
<thead>
<tr>
<th>Expenditures to Date:</th>
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</table>
Lowell Drive and Cedarbrook Court  
Database ID No. 14-008

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2022</th>
</tr>
</thead>
</table>

**Project Narrative:**
End of pipe media filtration and natural drainage system improvements.

**Project Status:**
Design in 2020 with construction in 2022.

**Total Estimated Project Cost:**  
$150,000 (Preliminary engineering, ROW)  
$550,000 (Construction)

**Expenditures to Date:**  
$-0-
Harborview Road Culvert Replacement
Database ID No. 07-217

Construction Funding Year(s): 2018

Project Narrative:
Upsizing culverts along Harborview Road to reduce flooding.

Project Status:
Design started Spring 2014. Construction is dependent on design and construction of marine outlet at Cottonwood Court or Harborview Road.

Total Estimated Project Cost: $315,000
Expenditures to Date: $80,000
Cottonwood Drive Drainage Improvement  
Database ID No. 13-006

| Construction Funding Year(s): | 2017 |

**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 Fall 2014 with construction in late summer 2017.

| Total Estimated Project Cost: | $967,000 |
| Expenditures to Date: | $0- |

![Site Location Map]
Seaview/Hazel Street Drainage Upgrade  
Database ID No. 13-006

Construction Funding Year(s): 2015

Project Narrative:
This project will improve conveyance along Seaview and Hazel Streets in the Cottonwood Neighborhood. Stormwater from this area during heavy rain events overpowers the drainage system and floods homes on the west side of Seaview and Birch Bay Drive.

Project Status:
Design and construction in 2015

Total Estimated Project Cost: $115,000
Expenditures to Date: $0
Collaborative Drainage System Repair-Birch Point
Database ID No. 07-241

Construction Funding Year(s): 2016

Project Narrative:
This project will install a new marine outfall and drainage system from Semiahmoo Drive to Semiahmoo Bay

Project Status:
Design underway summer 2014 with construction in 2016

Total Estimated Project Cost: $620,000
Expenditures to Date: 0
Richmond Park
Database ID No. 07-271

Construction Funding Year(s): 2020

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 2018 with construction late summer 2020

Total Estimated Project Cost: $1,275,000
Expenditures to Date: $-0-
**Wooldridge Drive Drainage Improvement**  
**Database ID No. 13-007**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2021</th>
</tr>
</thead>
</table>

**Project Narrative:**

Improve stormwater conveyance system to reduce street flooding and improve water quality.

**Project Status:**

Design will begin 2018 (Design related fees @ with construction late summer 2021

**Total Estimated Project Cost:** $255,000  
**Expenditures to Date:** $0-
Small Works Projects
Database ID No.

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2018 &amp; 2019</th>
</tr>
</thead>
</table>

**Project Narrative:**
A number of smaller works projects are being identified through the Subwatershed Master Planning process now underway. Final determination on specific projects to design and construct is contingent on further rating reviews with the BBWARM Advisory Committee.

**Project Status:**
Awaiting the next Subwatershed Master Plan completion (December 2014) and subsequent small works ranking process.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$175,000</th>
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</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>0</td>
</tr>
</tbody>
</table>
Birch Bay Drive and Pedestrian Facility
Database ID No.: 07-030

Construction Funding Year(s): 2016-2017

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. This multi-beneficial project is included in the Six-Year WRIP to reflect contributions from both the FCZD and BBWARM.

Project Status:


BBWARM: $250,000
FCZD: $250,000
All other funds: $10,920,000

Total: $11,420,000
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. A Joint Agency Agreement was approved and signed by the Environmental Protection Agency (EPA), Washington Department Of Ecology (DOE) and Whatcom County. Whatcom County will manage the projects with funding provided by EPA and DOE for the design and construction.

Project Status:
EIS completed, plan adopted by resolution July 2013; Work is dependent upon funding from State and Federal funds. The Washington Department of Ecology will request $3,800,000 for design and initial construction in the Washington State 2015/2016 biennium budget.

Total Estimated Project Cost: $14,209,000
Expenditures to Date: $1,315,000
Swift Creek Maintenance Project  
Database ID No. 08-023

**Construction Funding Year(s):**  
2015-2020

**Project Narrative:**

Until the Phase 1 projects are complete a significant amount of bedload is deposited on the alluvial fan of Swift Creek. An ongoing maintenance program is required to manage the deposits. The goals of the maintenance program are to protect and repair the levee system and to maintain the integrity of bridges at Goodwin and Oat Coles Roads.

**Project Status:**

Expenditures for 2015 are expected to complete the levee protection started in fall of 2014. Additional dredging and levee protection is expected for 2017-2020 at approximately $150,000 per year.

<table>
<thead>
<tr>
<th>Estimated Project Cost for 2015:</th>
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<tbody>
<tr>
<td>FCZD Expenditures to Date:</td>
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</tr>
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</table>

![Map of Swift Creek area with labeled locations]
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 as current property owners decide to sell their properties. Estimated project cost includes some funding for cleanup of up to four former gas stations, though the exact nature of the work is still undefined.

Total Estimated Project Cost: $3,500,000  
Expenditures to Date: $970,000
**Canyon Creek Restoration**
**Database ID No. 07-133**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2009, 2013 - 2014</th>
</tr>
</thead>
</table>

**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 with planting occurring in 2015.

| Total Estimated Project Cost: | $5,640,000 |
| Expenditures to Date:         | $5,620,000 |
Deming Levee Improvement Project
Database ID No. 07-106

Construction Funding Year(s): 2016

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.

Total Estimated Project Cost: $2,450,000
Expenditures to Date: $500,000
Jones Creek Debris Flow Protection
Database ID No. 07-105

Construction Funding Year(s): 2017 - 2018

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. Construction costs will be estimated once a final alternative is selected.

Total Estimated Design and RW Cost: $1,930,000
Expenditures to Date: $730,000
Lower Nooksack Planning: SWIF and CFHMP Update
Database ID No. Various

Construction Funding Year(s): TBD

Project Narrative:

The SWIF is a collaborative 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 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. The interagency team established to develop the SWIF wants to work towards updating the comprehensive flood hazard management plan when the SWIF is complete.

Project Status:

The SWIF planning process is underway and the final plan is anticipated to be complete by mid-2016. The interagency team will scope the CFHMP update as part of the planning process and initiate the work in late 2016.

Total Estimated Planning Cost: $1,650,000
Expenditures to Date: $550,000
High Creek
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 Kendall 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 has been hired to review the existing information, gather supplemental data, evaluate alternatives, recommend a preferred option, assist with public outreach, and present financing recommendations. An interim project is planned for later summer/fall 2014 to remove accumulated sediment in the reach from the SR 542 bridge westward to the Kendall Creek floodplain to maintain winter flood conveyance. Cost estimate includes placeholder for construction of improvements that are recommended by the management plan.

Total Estimated Project Cost:  $850,000
Expenditures to Date:  $200,000
## 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 Nolte Road. The proposal was 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. Based on the feedback received, the FCZD is pursuing an investigation through the United States Geological Survey as part of the update to the comprehensive flood hazard management plan.

### Total Estimated Project Cost:
TBD

### Expenditures to Date:
$150,000
Squalicum Creek Levee
Database ID No.: 13-009

Construction Funding Year(s): 2015

**Project Narrative:** A structural flood control facility is required along the Orchard Street Extension/Bay to Baker Trail alignment between Birchwood Avenue and I-5. A levee is required to ensure adequate protection of the future street, trail, and other public and private facilities adjacent to Squalicum Creek. The levee must be completed before Squalicum Creek can be re-routed in late 2015, making way for trail and street construction in 2017 and beyond.

**Project Status:** The project is being developed and implemented by the City of Bellingham and is currently in the design and permitting phase. The total project cost includes the cost to reroute Squalicum Creek.

**Total Estimated Project Cost:** $2,400,000
**FCZD Cost-Share:** $800,000

[Map of the area with an approximate location of the levee marked]
<table>
<thead>
<tr>
<th><strong>Construction Funding Year(s):</strong></th>
<th>2015 - 2020</th>
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</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><strong>Total Estimated Project Cost:</strong></th>
<th>$300,000</th>
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<tr>
<td><strong>Expenditures to Date:</strong></td>
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</table>

Due to the nature of this item, no map exists. Board of Supervisors review and prioritization will be sought at the appropriate time.
### CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</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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<tr>
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<td>Sept. 30, 2014</td>
<td>NR Committee/Hearing</td>
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<tr>
<td>J.E. “Sam” Ryan</td>
<td>RCR</td>
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<td>Division Head:</td>
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<td>Mark Persontius</td>
<td>WIP</td>
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<td>Purchasing/Budget:</td>
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<td>Brad Bennett</td>
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<td>Executive:</td>
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<tr>
<td>Jack Louws</td>
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<td>9/8/14</td>
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</tbody>
</table>

### TITLE OF DOCUMENT:

Ordinance terminating open space timber land classification and consolidating timber land classification with designated forest land classification and declaring land previously classified as timber land to be designated forest land.

### ATTACHMENTS:

Cover Memo  
Washington State Department of Revenue – FAQ on SB 6180  
Draft Ordinance

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

Effective June 12, 2014, and pursuant to RCW 84.34.400, a county legislative authority may opt to merge its timber land classification with its designated forest land program. To merge the programs, the County Council must enact an ordinance that:

(a) Terminates the timber land classification; and  
(b) Declares that the land that had been classified as timber land is designated forest land under Chapter 84.33 RCW.

A draft ordinance is attached should the County Council decide to merge the two programs.

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* Distribution Request: Assessors Office – Keith Willnauer, County Assessor

### COMMITTEE ACTION:  

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

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at:  [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
MEMORANDUM

TO: Honorable Keith Willnauer, Whatcom County Assessor
Honorable Jack Louws, Whatcom County Executive, &
Honorable Members of the Whatcom County Council

THROUGH: J.E. "Sam" Ryan, Planning & Development Services, Director

FROM: Erin Osborn, Planner

DATE: September 4, 2014

SUBJECT: Draft Ordinance to Merge Timber Land into Forest Land Program

On August 5th 2014, Planning & Development Services (PDS) and the Assessor’s Office presented a joint briefing to Council in P & D Committee on recent amendments to state law that authorize counties to merge the open space timber land program (RCW 84.34) into the forest land program (RCW 84.33).

Based on direction from Council at the August 5th briefing, PDS staff has prepared an attached draft ordinance for consideration by the County Assessor, County Executive, and County Council. The attached draft ordinance and background information is prepared for Introduction at the Council meeting on September 16th, and staff proposes a brief presentation and discussion in Council Natural Resources Committee on September 30, 2014.

At the August 5th briefing, Council Member Brenner indicated support for such a merger if timber management plans were made mandatory. As amended, state law gives the County Assessor discretion as to whether or not a timber management plan is required. The Assessor has recently indicated that ‘Timber Management Plans will be required by the Assessor’s Office with every new Designated Forest Land application or application to transfer.’ The attached draft ordinance does not contain a provision to make timber management plans mandatory, however, County legal staff has indicated that such a provision would be legally permissible, should Council wish to adopt this type of requirement by ordinance.

Background: During the 2014 legislative session, Senate Bill 6180 was passed by the Washington State Legislature which provides county legislative authorities with the option of merging the open space timber land program with the designated forest land program. The state law (SB 6180) became effective on June 12, 2014.
The new law automatically reduces the minimum acreage to qualify for the forest land program from 20 acres down to five acres. If an ordinance is adopted to consolidate or merge the two programs, all land classified as timber land would then become forest land under the sole administration of the Assessor's Office.

Implications of adopting an ordinance effectuating such a merger, in summary:

- If approved, the timber land classification would effectively cease to exist in Whatcom County, and the forest land classification as amended would be handled by the Assessor's Office regardless of whether land is located in a city or in an unincorporated area of the county.

- If approved, it would reduce the administrative workload of Planning & Development Services, and take away the need for public hearing before the County Council or Joint Granting authority (if forest land is located within an incorporated area).

- Merging the timber land classification with the designated forest land program would increase convenience to customers by providing one central location where applications are received, reviewed, and processed.

- If approved, any land that has been classified as timber land will be designated as forest land under Chapter 84.33.

- If approved, the County Assessor's Office will notify each owner of timber land of the merger by certified mail.

- If approved, any timber land classification taxation agreement will no longer be in effect.

- If approved, when designated forest land is removed from designation, only compensating tax will be collected in accordance with RCW 84.33.140(12), unless otherwise provided by law.

- If approved, the County must notify the Department of Revenue that it has merged its timber land program with its designated forest land program.

Please contact me if you have any questions.

Thank you.
SPONSORED BY: __________________
PROPOSED BY: Planning
INTRODUCTION DATE: ______________

ORDINANCE #____________________

TERMINATING OPEN SPACE TIMBER LAND CLASSIFICATION AND CONSOLIDATING
TIMBER LAND CLASSIFICATION WITH DESIGNATED FOREST LAND CLASSIFICATION
AND DECLARING LAND PREVIOUSLY CLASSIFIED AS TIMBER LAND TO BE
DESIGNATED FOREST LAND

WHEREAS, During the 2014 legislative session Senate Bill 6180 was passed by
the Washington State Legislature which allows a county legislative authority to merge
its open space timber land classification with its designated forest land program;
thereby terminating the open space timber land classification; and

WHEREAS, On June 12, 2014 the new law became effective; and

WHEREAS, Whatcom County finds that is in the public interest to merge the
County’s open space timber land classification with its designated forest land program;
and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. All open space timber land classifications granted in Whatcom County
prior to the effective date of this ordinance are hereby terminated.

Section 2. Whatcom County declares that on the effective date of this ordinance, all
land previously classified as open space timber land pursuant to RCW 84.34 is now
designated as forest land under Chapter RCW 84.33.

Section 3. Whatcom County declares that the date the property was classified as
timber land is considered to be the date the property was designated as forest land.

Section 4. In accordance with state law (RCW 84.33.130) the Whatcom County
Assessor shall notify each owner of open space timber land of the merger by
certified mail.
September 4, 2014 - Draft

Section 5. 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 ______________________, 20__

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

__________________________  ____________________________
Dana Brown-Davis, Council Clerk  Carl Weimer, Chairperson

APPROVED as to form:

__________________________
Royce Buckingham, Civil Deputy Prosecutor

( ) Approved  ( ) Denied

__________________________
Jack Louws, Executive

Date: _______________________
Frequently Asked Questions
Implementation of SB 6180: Consolidation of the Current Use Timber Land Classification and the Designated Forest Land Program

Q. What is the impact of the passage of SB 6180 for the Current Use Timber Land (CUTL) classification and the Designated Forest Land (DFL) program?

A. This bill allows counties the option of merging their CUTL classification under chapter 84.34 RCW into their DFL program under chapter 84.33 RCW. This bill also made the following changes to the DFL program:

- Reduced the minimum acreage requirement from 20 acres to five acres;
- Changed the approval due date for DFL applications from May 1 to July 1 of the year following application; and
- Authorized the assessor to require a timber management plan for DFL, less than 20 acres, if the assessor has reason to believe the land is no longer being used primarily for growing and harvesting timber.

Q. When does SB 6180 become effective?

A. SB 6180 has an effective date of June 12, 2014.

Q. Does the new five-acre minimum apply to the DFL program only if a county merges their CUTL classification into their DFL program?

A. No, the new minimum acreage for the DFL program applies to all DFL, regardless of whether a county chooses to merge their CUTL classification with their DFL program.

Q. If an owner has land less than 20 acres (not classified as CUTL) and applies for the DFL program, when is the earliest the owner could apply, and if approved, when would the designation be effective?

A. The new due date for approval of a DFL program application is July 1 of the year following application. If an owner submitted their completed DFL application on June 12, 2014, the county assessor must approve or deny that application prior to July 1, 2015. If the assessor does not approve or deny the application prior to July 1, 2015, then the application is automatically approved. If approved, the assessed value will be reduced beginning January 1, 2015 for taxes due in 2016. If denied, the applicant may appeal the denial to the county board of equalization. The date the application is denied determines the deadline for the applicant to appeal the denial to the county board of equalization. RCW 84.40.038

Q. If an owner of land 20 acres or more (not classified as CUTL) applied for the DFL program in 2013, by which date does the assessor have to approve or deny the application?

A. The assessor must have approved or denied the application prior to May 1, 2014, because SB 6180 was not effective until June 12, 2014.
Frequently Asked Questions
Implementation of SB 6180: Consolidation of the Current Use Timber Land Classification and the Designated Forest Land Program

Q. When an assessor is auditing the DFL program in his/her county to determine eligibility, can the assessor require a timber management plan from the owner?

A. Yes, but only if the DFL is less than 20 acres and the assessor has reason to believe that the DFL is no longer being used primarily for the growing and harvesting of timber. For all DFL, the assessor can also require a timber management plan when an application for classification or reclassification into the DFL program is submitted or when DFL is sold/transfered and the buyer signs a notice of continuance.

Q. If a county does not merge their CUTL classification into their DFL program, can owners of CUTL apply to reclassify their land into the DFL program?

A. Yes, owners of CUTL can apply to reclassify their land into the DFL program, but they are not required to do so.

Q. If a county has not merged their CUTL classification into their DFL program and a property owner has less than 20 acres of forest land, to which classification should they apply? If they are denied, to whom does the property owner appeal?

A. The property owner chooses which classification to apply:

- If the property owner applies for DFL, they apply to the assessor. If the assessor denies the application for classification, the property owner can appeal to the board of equalization.
- If the property owner applies for timber land, they apply to the county legislative authority. If the county legislative authority denies the application for classification, the property owner can appeal to Superior Court.

Q. If after June 12, 2014, one of these approved applicants removed their under 20-acre parcel, is compensating tax due?

A. If the land is removed under DFL (with no exception to tax), compensating tax is due. If the land is removed under CUTL (with no exception to tax), additional tax, interest, and penalty are due.

Questions Specific to Counties Considering Merging their CUTL Classification into their DFL Program

Q. What steps do the county legislative authority and the assessor need to take if the county wants to merge their CUTL classification into their DFL program?

A. If a county decides it wants to merge their CUTL classification into their DFL program, the county legislative authority must enact an ordinance that:

- Terminates the CUTL classification.
- Declares that CUTL is considered DFL.

Beginning on the adopted merger date, the county assessor must notify each owner of CUTL of the merger by certified mail.

Once the merger occurs, the CUTL classification for the county is terminated and any agreement, such as the Open Space Taxation Agreement, prepared by the granting authority when a CUTL application was approved will no longer be in effect. The county is also required to notify the Department of Revenue (Department) that it merged their CUTL classification into their DFL program.
Frequently Asked Questions
Implementation of SB 6180: Consolidation of the Current Use Timber Land Classification and the Designated Forest Land Program

Q. How should a county notify the Department of a completed merger?
A. The county can mail, email, or fax a copy of the ordinance to the Department at:
   Attn: Current Use Specialist
   Department of Revenue
   PO Box 47471
   Olympia, WA 98504-7471
   Fax: (360) 534-1380
   Email: judyw@dor.wa.gov

Q. How will the public know if a county has merged their CUTL classification into their DFL program?
A. A member of the public can contact the county assessor’s office or they can go to the Department’s web site at http://dor.wa.gov/content/FindTaxesAndRates/PropertyTax, then select, “Find counties with merged timber land and designated forest land classifications.” The Department will maintain the list of counties that have merged their CUTL classification into their DFL program.

Q. Will owners of CUTL be required to complete an application for the DFL program if the county merges their CUTL classification into their DFL program?
A. No, land classified as CUTL is automatically considered DFL on the merger date.

Q. If a county is planning to merge their CUTL classification into their DFL program, how are pending withdrawals handled if an owner submitted a two-year notice?
A. The DFL program does not include a two-year withdrawal provision because there is no penalty (only compensating tax) upon removal from the DFL program. If a two-year withdrawal notice for CUTL is pending, the county assessor should contact the owner, prior to the merger, to discuss the following options:
   • Immediate removal from the CUTL classification
   • Immediate removal from the DFL program following the merger
   • Removing the land from the DFL program once the two-year period has lapsed

   The amounts owing upon removal from the CUTL classification and the DFL program will vary. Because the calculations are different, the assessor should calculate the amounts owing for all three options described above, so the owner is aware of potential impacts.

Q. If a county merges their CUTL classification into their DFL program and a property owner requests removal from the DFL program shortly after the merger, would the owner owe compensating tax even though the land had not been in the DFL program for very long?
A. Unless the removal met an exception to compensating tax under RCW 84.33.140(13) or (14), compensating tax would be due. The date the land was classified as CUTL is considered the date the land was in DFL. Below is an example:
   • 15 acres of land is approved for the CUTL classification effective January 1, 2002.
   • The county in which the classified land is located merges their CUTL classification into their DFL program effective September 1, 2014.
   • The owner requests removal of their land and the assessor removes the DFL on June 30, 2015.
   • Nine years of compensating tax (plus taxes for the current year) would be due because the land is considered DFL as of January 1, 2002, and not September 1, 2014.
Frequently Asked Questions
Implementation of SB 6180: Consolidation of the Current Use Timber Land Classification and the Designated Forest Land Program

Q. If a county merges their CUTL classification into their DFL program, would the merger be considered a breach of contract of the Open Space Taxation Agreement and allow the owner to request removal from the CUTL classification without the assessor imposing additional tax, interest, and penalty?

A. No, RCW 84.34.070(2)(b), as amended by SB 6180, provides that designation of forest land as a result of the merger does not constitute a "removal" from the CUTL classification; therefore no additional tax, interest, and penalties are due. Moreover, WAC 458-30-355 states that the agreement to tax land according to its current use is not a contract and if changes made to chapter 84.34 RCW by the legislature caused land to be removed from classification, the owner would not be required to pay the additional tax, interest, and penalty. The merging of a county's CUTL classification and DFL program is not considered a "removal" and the merger, by itself, would not cause the land to be removed so unless the removal meets an exception to additional tax, interest, and penalty under RCW 84.34.108(6), the assessor is required to impose the additional tax, interest, and penalty.

Q. If a county merges their CUTL classification into their DFL program, does the assessor still have to keep a dual roll?

A. No, the assessor will no longer be required to keep a dual roll.

Q. If a county merges their CUTL classification into their DFL program, will the assessed (taxable) value of the land change?

A. No, the assessed (taxable) value of the land should not change because CUTL and DFL are both assessed according to WAC 458-40-540.

Q. Does merging the CUTL classification and DFL program affect the tax base for excess levies?

A. Yes, the tax base for excess levies includes the taxable value of real and personal property (local and state assessed), plus timber assessed value (TAV), less boats and full senior citizen exempted value. Since the assessed value of DFL is used in the calculation of TAV, (not the assessed value of CUTL), the merging of these two programs will result in an increased tax base for excess levies. An increased tax base results in a reduced levy rate applied to real and personal property assessed value.

Q. Is the distribution of timber excise tax affected by merging the CUTL classification and DFL program?

A. The distribution process of timber excise tax will remain the same. Timber excise tax is distributed to the taxing districts based on the types of levies they have and the percentage of the county's DFL located within each taxing district.

Merging the CUTL classification and DFL program may change the percentage of DFL in each taxing district, thus the distribution percentage of timber excise tax may change per taxing district within the county.

For more Information
If you have questions or need additional information about this topic, contact the Department of Revenue, Property Tax Division at (360) 534-1400.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES
Originator: MDC 9/15/14
Division Head:
Dept. Head: KNE 9/15/14
Prosecutor: MDC 9/15/14
Purchasing/Budget:
Executive:

DATE RECEIVED
SEP 09 2014
WHATCOM COUNTY COUNCIL

TITLE OF DOCUMENT: 2014 Supplemental Budget Request #15

ATTACHMENTS: Ordinance, Memoranda & Budget Modification Requests

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

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

Supplemental #15 requests funding from the General Fund:

1. To appropriate $26,000 in Council to fund Watershed Improvement district elections.
2. To appropriate $5,000 in the Sheriff’s Office to fund vehicle tow charges.
3. To appropriate $45,500 in Non-Departmental to fund What-Comm E911 grant pass-through
   Jail Fund:
   4. To appropriate $80,300 in Jail to fund additional psychiatric medications.
   5. To appropriate $97,000 in Jail to fund additional non-psychiatric medications.
   6. To appropriate $15,000 in Jail to fund additional electronic home detention costs.
   Mental Health / Chemical Dependency fund:
   7. To appropriate $80,300 to fund Jail psychiatric medications.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:
ORDINANCE NO.
AMENDMENT NO. 15 OF THE 2014 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 2014 budget included therein:

<table>
<thead>
<tr>
<th>Fund</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>Council</td>
<td>26,000</td>
<td>(26,000)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>5,000</td>
<td>(5,000)</td>
<td>-</td>
</tr>
<tr>
<td>Non Departmental</td>
<td>45,500</td>
<td>(45,500)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>76,500</td>
<td>(76,500)</td>
<td>-</td>
</tr>
<tr>
<td>Jail Fund</td>
<td>192,300</td>
<td>(95,300)</td>
<td>97,000</td>
</tr>
<tr>
<td>Mental Health / Chemical Dependency Fund</td>
<td>80,300</td>
<td>-</td>
<td>80,300</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>349,100</td>
<td>(171,800)</td>
<td>177,300</td>
</tr>
</tbody>
</table>

ADOPTED this ___ day of ______________________, 2014.

ATTEST:
WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Carl Weimer, Chair of the Council

APPROVED AS TO FORM:
( ) Approved    ( ) Denied

Jack Louws, County Executive

Date: ____________________
<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
<th>Net Effect to Fund Balance (Increase) Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Council</td>
<td>To fund Watershed Improvement district elections.</td>
<td>26,000</td>
<td>(26,000)</td>
<td></td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund vehicle tow charges.</td>
<td>5,000</td>
<td>(5,000)</td>
<td></td>
</tr>
<tr>
<td>Non Departmental</td>
<td>To fund What-Comm E911 grant pass-through.</td>
<td>45,500</td>
<td>(45,500)</td>
<td></td>
</tr>
<tr>
<td><strong>Total General Fund</strong></td>
<td></td>
<td>76,500</td>
<td>(76,500)</td>
<td></td>
</tr>
<tr>
<td><strong>Jail Fund</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jail</td>
<td>To fund additional psychiatric medications.</td>
<td>80,300</td>
<td>(80,300)</td>
<td></td>
</tr>
<tr>
<td>Jail</td>
<td>To fund additional non psychiatric medications.</td>
<td>97,000</td>
<td>-</td>
<td>97,000</td>
</tr>
<tr>
<td>Jail</td>
<td>To fund additional electronic home detention costs.</td>
<td>15,000</td>
<td>(15,000)</td>
<td></td>
</tr>
<tr>
<td><strong>Total Jail Fund</strong></td>
<td></td>
<td>192,300</td>
<td>(95,300)</td>
<td>97,000</td>
</tr>
<tr>
<td>Mental Health / Chemical Dependency Fund</td>
<td>To fund Jail psychiatric medications.</td>
<td>80,300</td>
<td>-</td>
<td>80,300</td>
</tr>
<tr>
<td><strong>Total Supplemental</strong></td>
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<td>177,300</td>
</tr>
</tbody>
</table>
August 21, 2014

MEMORANDUM

TO: Jack Louws, County Executive
FROM: Dana Brown-Davis, Clerk of the Council
SUBJ: Supplemental Budget Request

On July 23, 2014, the Whatcom County Council Office received petitions to form four new irrigation districts in Whatcom County (to be known as watershed improvement districts). Under State law, the County Council is charged with conducting the proposed irrigation district elections and carrying out all mandated requirements to ensure that landowners within the proposed districts have a vote in the election for their area.

Attached is a supplemental budget request in the amount of $26,000 to cover expenses associated with conducting an election for each of the following proposed districts: Drayton Watershed Improvement District, Laurel Watershed Improvement District, South Lynden Watershed Improvement District, Sumas Watershed Improvement District. All costs will be reimbursed by the district proponents once the elections are complete.

Please contact me if you have questions.

Thank you.
Supplemental Budget Request

Council

Status: Pending

Fund 1  Cost Center 1100  Originator: Dana Brown-Davis
Expenditure Type: One-Time  Year 2 2014  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Conduct Watershed Improvement District Elections

X

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
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<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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</thead>
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<td>4341.4510</td>
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<tr>
<td>7190</td>
<td>Other Miscellaneous</td>
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</tr>
<tr>
<td>Request Total</td>
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<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

1a. Description of request:
On July 23, 2014, the Whatcom County Council Office received petitions to form four new irrigation districts in Whatcom County (to be known as watershed improvement districts). Per Chapter 87.03 RCW the Council Office is responsible for conducting the elections that will decide if the new districts shall be formed. Funds requested will cover all costs associated with preparing for and conducting the four watershed improvement district elections.

1b. Primary customers:
The proponents of the four districts.
Owners of property within the proposed district boundaries.

2. Problem to be solved:
We do not have funds available in our current budget to cover costs associated with conducting the four proposed watershed improvement district elections. The requested funds will allow us to pay for copies, postage, legal notice publication, extra help, etc. All costs will be reimbursed by the district proponents once the elections are complete.

3a. Options / Advantages:
This is our only option. We do not have funds in our budget to cover costs associated with conducting the four proposed watershed improvement district elections.

3b. Cost savings:
N/A

4a. Outcomes:
The four proposed watershed improvement district elections will be conducted in accordance with state law and the outcome of each election will be announced by the end of 2014.

4b. Measures:
Ballots will be canvassed and election results will be announced.

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:
General fund.

All expenses incurred will be reimbursed by the proponents of the four watershed improvement districts.
from funds currently held in a Whatcom County Treasurer’s suspense fund.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: September 2, 2014
SUBJECT: Supplemental Budget ID# 1905
Vehicle Tow Charges and Registered Owner (RO) Reimbursements

The attached Supplemental Budget requests increases in revenue and expenditure line items to provide adequate budget authority for an accounting change required by Administrative Services Finance.

Background and Purpose
The Sheriff’s Office routinely impounds vehicles for evidence and various enforcement actions. The Sheriff’s Office pays the tow charges and often requires reimbursement before releasing the vehicles to the registered owners. These reimbursements were historically deposited as refunds of expenditure.

Administrative Services Finance advised that effective 01/01/13, these reimbursements no longer qualify as refunds of expenditure and must be deposited as revenue. This supplemental budget is needed to increase revenue and expenditure accounts for the required change.

The increase in expenditures will be directly off-set by an increase in revenue.

Funding Amount and Source
Approximately $5,000.00 is paid annually by the Sheriff’s Office for tow bills with corresponding reimbursements from vehicle owners.

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

Thank you.
Supplemental Budget Request

Sheriff

Administration

Suppl'ID # 1905  Fund 1  Cost Center 2920  Originator: Dawn Pierce

Expenditure Type: One-Time  Year 2 2014  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: Vehicle Tow Charges and Reimbursements - 2014

X

Department Head Signature (Required on Hard Copy Submission)

Date 9/2/14

Costs: Object  Object Description  Amount Requested

4369.9001  Miscellaneous Revenues  ($5,000)

6610  Contractual Services  $5,000

Request Total  $0

1a. Description of request:
An increase in revenue and expenditure line items is needed to provide adequate budget authority for an accounting change required by Administrative Services Finance.

1b. Primary customers:

2. Problem to be solved:
The Sheriff's Office routinely impounds vehicles for evidence and various enforcement actions. The Sheriff's Office pays the tow charges and often requires reimbursement before releasing the vehicles to the registered owners. These reimbursements were historically deposited as refunds of expenditure.

Administrative Service Finance advised that effective 01/01/13, these reimbursements no longer qualify as refunds of expenditure and must be deposited as revenue. Therefore, increases in both revenue and expenditure accounts is needed for the required change.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:
Reimbursements from vehicle owners for tow charges will be reported as revenue.

4b. Measures:

5a. Other Departments/Agencies:
n/a

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

6. Funding Source:
Approximately $5,000.00 in reimbursements is received annually from vehicle owners.
MEMORANDUM

To: Whatcom County Executive Jack Louws and
    Whatcom County Council Members
From: Suzanne Mildner, Grant Coordinator
Subject: Supplemental Budget Request for E911 funding (Pass through Grant to What-Comm)
Date: September 2, 2014

The County is in the process of entering into a subrecipient agreement with the City of Bellingham to facilitate a pass-through grant from The Washington State Military Department. The grant funding is for FY2014-15 Emergency 911 operational expenses for What-Comm Communications.

The grant contract period is July 2014 through August 2015, for a total of $45,500. The execution of the Subrecipient Agreement will be contingent upon your approval of this budget authority. Accordingly, we are requesting approval for supplemental funding in the amount of $45,500 to support 911 operations at What-Comm Communications.
Supplemental Budget Request

Status: Pending

Executive

Supp't ID # 1906  Fund 1  Cost Center 4275  Originator: Suzanne Mildner

Expenditure Type: One-Time  Year 2 2014  Add'l FTE  □  Add'l Space  □  Priority 1


X

Department Head Signature (Required on Hard Copy Submission)  Date  9-2-14

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
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<td>State Enhanced 911 Funds</td>
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<tr>
<td></td>
<td>7220</td>
<td>Intergov Subsidies</td>
<td>$45,500</td>
</tr>
</tbody>
</table>

Request Total $0

1a. Description of request:
This is a continuation of a state-funded (pass-through) grant from the Washington State Military Department to reimburse What-Comm Communications Center for eligible E911 operating expenditures under WAC 118-66-050 (eligible professional development and operational expenses).

1b. Primary customers:
City of Bellingham, What-Comm Communications

2. Problem to be solved:
What-Comm is able to access this State Military Department funding only by way of passing through the local county government (by subrecipient agreement).

3a. Options / Advantages:
The intergovernmental (subrecipient) grant agreement is the only way in which to access this fund source. The acceptance of these grant funds ultimately reduces the cost to the community for 911 services.

3b. Cost savings:
N/A

4a. Outcomes:
911 services cost reductions for our community due to state subsidies

4b. Measures:

5a. Other Departments/Agencies:
City of Bellingham, What-Comm Communications

5b. Name the person in charge of implementation and what they are responsible for:
Lt. William Slodysko, What-Comm Deputy Director

6. Funding Source:
Washington State Military Department
WHATCOM COUNTY SHERIFF’S OFFICE
MEMORANDUM

DATE: 08/19/2014: Amended 09/04/14

TO: Jack Louws, Whatcom County Executive
   Council Members, Whatcom County Council

FROM: Sheriff Bill Elfo

RE: Supplemental Budget Request #1903 Psychiatric Medication Funding

Please allow this memo to serve as a request for approval of the accompanying
Budget Supplemental Request. This request is for sufficient funding to pay for
psychiatric medications deemed medically necessary for offenders housed at the
Whatcom County Jail and Work Center.

When the 2014 budget was created, we had seen a reduction in medication
costs due to a small decrease in the inmate population and a change in the way
we obtained medications to a mail order pharmacy. The pharmacy change
resulted in a significant reduction in our medication costs, and that was used as
the basis for estimating the 2014 expenditure amounts.

In the 2 years since the creation of our budget, we have seen an increase in the
number of offenders incarcerated and, more importantly, an increase in acutely ill
offenders. This has resulted in a higher than anticipated medication cost.

Chief Wendy Jones is overseeing this process and will be happy to answer any
question you may have. Thank you.
Supplemental Budget Request

Jail

<table>
<thead>
<tr>
<th>Supp'l ID #</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1903</td>
<td>118</td>
<td>118161</td>
<td>Wendy Jones</td>
</tr>
</tbody>
</table>

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

Name of Request: Medications Psychiatric

Department Head Signature (Required on Hard Copy Submission)  Date: 9/4/2014

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>6320.001</td>
<td>Office &amp; Op Supplies</td>
<td>$80,300</td>
</tr>
<tr>
<td>8301.124</td>
<td>Operating Transfer In</td>
<td>($80,300)</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
This Supplemental budget request is to increase the available funding for medications used to treat mental illness for inmates in the Whatcom County Jail and Work Center.

1b. Primary customers:
Inmates in the Whatcom County Jail and Work Center with mental illness.

2. Problem to be solved:
Medication costs for the treatment of mental illness have increased significantly and unexpectedly in 2014. The funding originally allocated for these medications in the 2014 budget is insufficient to meet the need. A review of medication invoices indicates this increase is a combination of a higher number of inmates, a higher number of inmates with serious mental health issues and the utilization of some newer psychiatric medications with a small number of inmates who have not responded to some of the other medications traditionally used by the jail.

The jail is able to access funding for Psychiatric medications from the Behavioral Health Sales Tax fund to reimburse the Jail Sales Tax fund since many of the inmates receiving these medications are continuing or re-starting treatment they were receiving in the community.

3a. Options / Advantages:
We are currently reviewing the list of medications used at the jail. We always use generic medications when they are available, and will use older medications that have a history of being effective for specific illnesses versus the latest and greatest. In addition, all inmate medications are packaged using a blister pack system and our pharmacy provides credits for all medications in un-popped packaging that are returned. We are working with the State Pharmacy Board to see if it is possible to take advantage of programs made available by pharmaceutical companies for newer, very expensive medications that are more effective than some older medications. At this time, this inquiry is in process.

3b. Cost savings:
N/A

4a. Outcomes:
There will be sufficient funding available to cover the costs of psychiatric medications.

4b. Measures:
Budget status sheets are monitored on a monthly basis and compared to funds still available. In addition, all medication invoices are reviewed for accuracy by the jail's medical billing clerk.

5a. Other Departments/Agencies:
We work with the Health Department to transfer the funds to pay for psychiatric medications. There will
Jail

<table>
<thead>
<tr>
<th>Suppl ID #</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
</tr>
</thead>
<tbody>
<tr>
<td>1903</td>
<td>118</td>
<td>118161</td>
<td>Wendy Jones</td>
</tr>
</tbody>
</table>

be no added workload.

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

Anne Deacon is the Human Services Manager. She has been made aware of the increased need.

6. **Funding Source:**

Both the Jail Sales Tax Fund and the Behavioral Health Fund.
WHATCOM COUNTY SHERIFF’S OFFICE MEMORANDUM

DATE: 08/19/14: Amended 09/04/14

TO: Jack Louws, Whatcom County Executive
    Council Members, Whatcom County Council

FROM: Sheriff Bill Elfo

RE: Supplemental Budget Request #1902 Medication Funding

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This request is for sufficient funding to pay for medications deemed medically necessary for offenders housed at the Whatcom County Jail and Work Center.

When the 2014 budget was created, we had seen a reduction in medication costs due to a small decrease in the inmate population and a change in our pharmacy to a mail order system. The pharmacy change resulted in a significant reduction in our medication costs, and that was used as the basis for estimating the 2014 expenditures.

In the 2 years since the creation of our budget, we have seen an increase in the number of offenders incarcerated, and, more importantly, an increase in acutely ill offenders. This has resulted in a higher than anticipated medication cost.

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 ID #: 1902  Fund: 118  Cost Center: 118160  Originator: Wendy Jones

Expenditure Type: One-Time  Year: 2014  Add'l FTE □  Add'l Space □  Priority: 1

Name of Request: Medications main medical

X

Department Head Signature (Required on Hard Copy Submission)  Date: 9/4/2014

Costs:

<table>
<thead>
<tr>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>6320.001</td>
<td>Office &amp; Op Supplies</td>
<td>$97,000</td>
</tr>
</tbody>
</table>

Request Total $97,000

1a. Description of request:
This Supplemental budget request is to increase spending authority to cover the costs of general medications for jail inmates.

1b. Primary customers:
Inmates at the Whatcom County Jail and Work Center

2. Problem to be solved:
Medication costs for both general medical conditions have increased significantly and unexpectedly in 2014. The funding originally allocated for these medications in the 2014 budget is insufficient to meet the need. A review of medication invoices indicates this increase is a combination of a higher number of inmates and a higher number of inmates with serious health issues.

3a. Options / Advantages:
We are currently reviewing the list of medications used at the jail. We always use generic medications when they are available, and will use older medications that have a history of being effective for specific illnesses versus the latest and greatest. In addition, all inmate medications are packaged using a blister pack system and our pharmacy provides credits for all medications in un-popped packaging that are returned. We are working with the State Pharmacy Board to see if it is possible to take advantage of programs made available by pharmaceutical companies for newer, very expensive medications that are more effective than some older medications. At this time, this inquiry is in process.

3b. Cost savings:
N/A

4a. Outcomes:
There will be sufficient funds available to purchase medications to treat serious medical conditions.

4b. Measures:
Budget status sheets are monitored on a monthly basis and compared to funds still available. In addition, all medication invoices are reviewed for accuracy by the jail’s medical billing clerk.

5a. Other Departments/Agencies:
N/A

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

6. Funding Source:
Funding will come directly from the Jail Sales Tax fund.
WHATCOM COUNTY SHERIFF’S OFFICE

MEMORANDUM

DATE: 7/18/2014

TO: Jack Louws, Whatcom County Executive
   Council Members, Whatcom County Council

FROM: Sheriff Bill Elfo

RE: Supplemental Budget Request #1891 EHD equipment

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This request will provide spending authority to rent Electronic Home Detention (EHD) equipment from our vendor, WASPC (Washington Association of Sheriffs and Police Chiefs).

When the 2014 budget was created, the EHD program was experiencing declining enrollment, due in large part to the economy. The estimated expenditures for the program were based on that decline. In 2014, we are seeing a slow, but steady, increase in the number of offenders who are eligible to participate in this Jail Alternative program. This increase, plus a recent decision by the State Auditor’s office that WASPC and contracting agencies had mistakenly failed to collect sales tax on EHD services is leaving the Corrections Bureau with an estimated shortage in our 2014 budget for these services.

Due to the increase in offender participation, revenues have also increased, and it is anticipated that the increased revenues will more than cover the cost of this supplemental.

Chief Wendy Jones is overseeing this process and will be happy to answer any question you may have. Thank you.
Supplemental Budget Request

Status: Pending

Jail

Suppl ID # 1891  Fund 118  Cost Center 118145  Originator: Wendy Jones

Expenditure Type: One-Time  Year 2 2014  Add'l FTE □  Add'l Space □  Priority 1

Name of Request: EHD Equipment

[X]  Bill  Efo  7.17.2014

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
<thead>
<tr>
<th>Costs:</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<td>6630.902</td>
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<tr>
<td>Request Total</td>
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<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:

This supplemental request is for increased spending authority for Electronic Home Detention (EHD) equipment, used in the Sheriff's Office, Corrections Alternatives Programs.

1b. Primary customers:

Directly, Offenders who are participating in the EHD program; indirectly members of the local criminal justice system, as they are able to consider EHD as an alternative to full incarceration for eligible offenders.

2. Problem to be solved:

2 issues have led to this request: 1) a higher than anticipated rate of participation in the EHD program and 2) a recent decision by the State Auditor's office that WASPC (Washington Association of Sheriff's and Police Chiefs), the entity from which we rent our EHD equipment, should have been charging sales tax on the rental of the equipment. As part of the settlement between WASPC and the State Department of Revenue, Whatcom County was invoiced for $8,160.96 to pay the owed sales tax amounts. Both of these factors have caused an increase in expenditures that were not anticipated at the time the 2014 budget was created.

3a. Options / Advantages:

2 options were considered:

1) Draw the additional funding from other parts of the jail budget. A review of the jail budget indicates that this would not be a prudent solution. The 2014 budget has already been stretched to accommodate some unanticipated expenditures including the County negotiated salary increases for Corrections Deputies, extended medical leaves for several personnel that have resulted in higher than normal overtime coverage, and some equipment issues in the main jail that needed to be handled. Given the nature of Corrections, it is critical that there are funds available to handle unanticipated issues which are time sensitive.

2) Divert individuals who would otherwise be eligible for EHD to full custody, once the current spending limit has been reached. Offenders who are placed on EHD are diverted to this program because they do represent a much lower risk to the community, have demonstrated that they will be able to operate successfully under the rules of the program and are willing to pay for the privilege of participating. To divert them into full custody increases the bed demand on our overcrowded system, places individuals who do not require the high level of security in our facilities, and reduces the revenues to the County to help off-set the costs of the Corrections Bureau.

3b. Cost savings:

It will allow us to continue to divert eligible offenders to the EHD program at a cost of $27.00 a day per
inmate, part or all of which is reimbursed to the County as a fee to the inmate for participation versus placing the offender in full custody at a cost of $78.00 per day per inmate, with no offender generated revenue as a cost off-set.

4a. Outcomes:
There will be sufficient funds available to rent the number of units needed to continue the EHD program for the balance of 2014.

4b. Measures:
The number of participants in the EHD program in constantly monitored and included in a monthly report of Jail Alternative Participation. Budget status sheets are reviewed on a monthly basis and will be used to continue to monitor expenditures for this program.

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:
The Jail Sales Tax fund. At this time it is anticipated that the Revenues for this program, which to the Jail Sales Tax Fund, will be approximately $40,000 over the original budget estimates. This higher revenue will off-set the requested expenditure. The revenues are generated by program participation fees charged to the offenders participating in EHD.
Supplemental Budget Request

Health

Expenditure Type: One-Time   Year 2  2014   Add'l FTE  □   Add'l Space  □   Priority  1

Name of Request: Trf to support additional Jail psych meds

X

Department Head Signature (Required on Hard Copy Submission)  Date

<table>
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<tr>
<th>Costs:</th>
<th>Object</th>
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<td>Operating Transfer Out</td>
<td>$80,300</td>
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1a. Description of request:
Transfer of funding to reimburse the Jail for additional psychiatric medications. See related Jail supplemental #1903.

1b. Primary customers:

2. Problem to be solved:

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:

4b. Measures:

5a. Other Departments/Agencies:

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

6. Funding Source:
Mental Health/Chemical Dependency Fund Balance

Rpt: Rpt Suppl Regular

Thursday, September 04, 2014