WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

Initial: K.B
Date: 7/8/2015
Date Received in Council Office: 7/9/2015
Agenda Date: 7/21/2015
Assigned to: Natural Resources Committee

Division Head: Mark Personius
Dept. Head: Sam Ryan
Prosecutor: Royce Buckingham
Purchasing/Budget:

Executive: Jack Louws

7/18/15

TITL OF DOCUMENT:
Whatcom County Agriculture-Watershed Pilot Project

ATTACHMENTS:
1. Memo
2. Ag-Watershed Briefing Note

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.)

Informational discussion on the progress and anticipated outcomes of the County Ag-Watershed Project, as authorized by Council through grant contract agreement between Whatcom County and the WA Department of Commerce for a planning-only land use grant for watershed protection and restoration.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: 201203014

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 Councilmembers
FROM: Karin Beringer, Planner I
THROUGH: Mark Personius, Assistant Director
DATE: July 9, 2015
SUBJECT: Whatcom County Agriculture-Watershed Pilot Project

The Long Range Planning Division, in coordination with our consultant, FHB Consulting Services Inc., would like to provide you with an update on the Whatcom County Agriculture-Watershed Pilot Project.

Purpose: Informational discussion on the progress and anticipated outcomes of the County Ag-Watershed Project, as authorized by Council through grant contract agreement between Whatcom County and the WA Department of Commerce for a planning-only land use grant for watershed protection and restoration.

Background information:
The Whatcom County Ag-Watershed Project is examining how a marketplace approach can strengthen agricultural endeavors while enhancing larger-scale watershed processes and functions. This research and development project is nearing completion, and the project team will provide an update and information on project status, outcomes, and draft work products. More information and links to the project fact sheets and project website are available at: http://www.whatcomcounty.us/1146/Current-Initiatives

The Ag-Watershed team last updated council on our progress in December of 2013. Since then we have conducted field tests of scientific tools and protocols, provided two demonstration tours for project partners and review committee members, and have been wrapping up the two pilot projects. The project will be complete, with final reports available for viewing, by the end of September 2015.
BRIEFING NOTE
Project Overview and Status Update
December 2014

Whatcom County Ag-Watershed Project

PROJECT OVERVIEW

The Ag-Watershed Project is a research and development project focused on the preparation and testing of scientific tools to measure the benefits created as a result of specific actions taken by landowners that strengthen agriculture and enhance the watershed. While it may seem that agriculture and watershed functions are at odds with one another, there are in fact, many locations where protection of agricultural lands and enhancement of watershed functions can result in mutual benefits.

The Ag-Watershed Project is exploring quantitative tools that can help to measure, recognize, and account for actions which go above and beyond what is required by regulation, and which can generate benefits for agricultural and watershed functions. This is part of a larger effort within the project to examine how incentive-based approaches can work with current regulation to strengthen agricultural endeavors while enhancing large-scale watershed functions.

Whatcom County Planning and Development Services’ Agricultural Program and fellow project partners (see bottom of page for partner list) received a Watershed Protection and Restoration Land Use Grant through the Washington Department of Commerce to complete this project. Phase 1 and Phase 2 consultant teams have been working with project partners and participants to:

- use an integrated and transparent approach to find situations where watershed enhancement and agricultural protection activities can be mutually supportive (“win-win” solutions), or at least can reflect acceptable tradeoffs between agricultural protection and watershed enhancement;
- work closely with landowners in the pilot focus area to design two site-specific pilot projects (in the Bertrand and Fishtrap Watersheds) to demonstrate how watershed enhancement actions might complement and strengthen agricultural endeavors and how to design acceptable tradeoffs between agricultural protection and watershed enhancement;
- develop a structured, incentive-based approach for implementation of such projects, incorporating the use of incentives and other market-related tools that complement and build on existing regulatory and voluntary programs to encourage and reward measurable project outcomes which advance both agricultural protection and watershed enhancement objectives.

PROJECT STATUS

Highlights of completed Phase 1 work (Jun 2012-Jul 2013) and current Phase 2 work (Aug 2013-Dec 2014):

**Phase 1 technical work completed:**
- Characterization and mapping of local agricultural and watershed system characteristics based on current regulation, adopted plans and priorities.
- Outreach for landowner and stakeholder input on characterization features, potential enhancements, and pilot concepts for further testing of tools.
- See project website for Phase 1 fact sheets and reports, e.g., Ag & Watershed Characterization & Mapping, Credit Accounting System and project archive.
- Development of scientific measurement tools and structured protocols for quantifying benefits from actions that enhance watersheds and/or agricultural functions on ag land.
- Exploration of potential pilot sites identified for further testing of tools.
- See Fact Sheets #3 and #4 on project website and the Program Strategy Report for project scope, purpose of pilots, and collaborative approach to this research project.

**Phase 2 technical work status:**
- Field tests of scientific tools and protocols (stream function, stream shade, and Ag Metric v2.5) conducted and shared with pilot landowners (April-Aug 2014).
- Demonstration tour with Phase 2 Review Committee and Partners (June 2014).
- Outreach for the Ag Metric Survey input by Partners, Review Committee and advisory bodies (Sept-Oct 2014). See Review Committee (Phase 2) page on project website, June 2014 Tour presentations and Nov 2013 meeting materials.

See project website [https://sites.google.com/site/wcwatershedag](https://sites.google.com/site/wcwatershedag/) for resources listed above.

PROJECT PARTNERS

[Logos of various partners]

CONSULTING PROJECT MANAGER

FHB Consulting Services Inc.
CURRENT TECHNICAL WORK FOCUS

The **Ag Metric** is a simple measurement tool to calculate the benefits of actions taken on a single farm or group of farms to enhance priority agricultural system characteristics. These ag priorities were identified in Phase 1 of the project while working with landowners. See Fact Sheet #2 Identifying Opportunities to Strengthen Agriculture & Watershed Systems in Whatcom County, on the project website [https://sites.google.com/site/wcwatershedag/](https://sites.google.com/site/wcwatershedag/)

The metric is in the first steps of development and will help to measure changes in priority agricultural characteristics and benefits as a result of specific actions (e.g., protection of land from conversion, provision of adequate drainage, protection of ag lands from flooding).

An important next step is to further test the mathematical weighting factors used in the prototype Ag Metric in order to properly reflect the relative importance of these various beneficial actions for enhancing the viability of agriculture in Whatcom County.

### PROJECT SCOPE and OUTCOMES

The Ag-Watershed Project’s work has been focused on the outcomes below and includes documentation and sharing of key learning across technical disciplines and with non-technical project participants.

| Development of robust accounting protocols to measure, report and track the benefits generated from a specific action for enhancing agriculture and/or watersheds in Whatcom County. | Demonstration pilot projects on two sites to field-test scientific measurement tools which connect specific actions taken on agricultural land to the resulting agricultural or watershed benefits. | Implementation of two pilot projects to demonstrate how agricultural and watershed benefits generated by agricultural landowners can be measured, recognized and accounted for. |

### PROJECT SCHEDULE (REVISED)

**August—October 2014** Survey input on prototype Ag Metric v2.5 participation by project team, partners, advisory bodies (AAC, PDR Oversight Committee), Ag-Watershed Project Phase 2 Review Committee and public.

**August—November 2014** Pilot landowners work with project team and partners to further explore potential enhancement actions and to test the scientific assessment tools for analysis of enhancement options.

**November 2014—February 2015** Draft Report review by Project Partners, Review Committee, advisory bodies, and interested public via project website. Reports will describe testing of the project’s scientific measurement tools to assess potential benefits associated with specific enhancement actions. Contact Karin Beringer for notification see contact information below.

**Spring 2015** Demonstration Tour #2 for Project Review Committee and Partners to review key learning regarding scientific tools for connecting agricultural and/or watershed benefits to specific actions taken on agricultural lands.

**April—June 2015** Final Report briefings and review by Project Partners, Review Committee, and advisory bodies. Reports will describe project outcomes and be available on the project website [https://sites.google.com/site/wcwatershedag/](https://sites.google.com/site/wcwatershedag/)

For additional information, contact the project leads:

- **Karin Beringer**, Whatcom Co PDS  
  kberinge@co.whatcom.wa.us  Tel 360-676-6907

- **Heather MacKay**, FHB Consulting Services Inc.  
  heather@fhb3.com  Tel 360-305-8255
Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master Plan

ATTACHMENTS:
1. Memo
2. Contract Information Sheet
3. Contract and related exhibits

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.)

This contract is for the third and final in a series of subwatershed master plans developed for the urbanized areas of the BBWARM District. This subwatershed master plan will include Birch Point, the Terrell Creek urban area, and Point Whitehorn. As with previous subwatershed master plans (Central North and Central South Subwatersheds), this plan will evaluate the condition of stormwater systems and identify capital improvement projects, small projects, and maintenance needs that will be incorporated into the BBWARM capital and maintenance programs.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

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

FROM: Jon Hutchings, Public Works Director

THROUGH: Gary S. Stoyka, LHG, Natural Resources Program Manager
Kirk N. Christensen, P.E., Stormwater Manager

RE: Contract with Tetra Tech, Inc., for the Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master Plan

DATE: June 24, 2015

Please find attached for your review and approval two originals of a contract for services between Tetra Tech, Inc., and Whatcom County for the Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master Plan in Birch Bay.

- **Background and Purpose**
The Birch Bay Watershed and Resource Management (BBWARM) District was established as a special purpose district to manage stormwater in the Birch Bay watershed. Earlier planning efforts initiated by the County identified sensitive areas within the watershed that should be protected and also areas where development should be allowed. For the developing areas, watershed master planning is used to address deficiencies in the current stormwater infrastructure and to plan for future infrastructure needs. This contract will complete the Urban Subwatershed Master Planning for the developed portions of the BBWARM District and will include Birch Point, the Terrell Creek Urban Area, and Point Whitehorn subwatersheds.

Tetra Tech was chosen through a competitive selection process (RFQ 15-01),

- **Funding Amount and Source**
This contract in the amount of $174,227 will be funded by fees collected through the Birch Bay Watershed and Aquatic Resources Management District (cost center 169250, work order 17689).

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

Attachments
Originating Department: Public Works-Stormwater
Contract or Grant Administrator: Kraig Olason, Senior Planner
Contractor’s / Agency Name: Tetra Tech, Inc.

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): __________ CFDA#: __________

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): RFQ 15-01 Cost Center: 169250

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 is for less than $100,000.
☐ Contract work is for less than 120 days.
☐ Interlocal Agreement (between Governments).
☐ Contract for Commercial off the shelf items (COTS).
☐ Work related subcontract less than $25,000.
☐ Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments): $ *174,227.00***
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.

Summary of Scope:
This contract is for the third and final in a series of subwatershed master plans developed for the urbanized areas of the BBWARM District. This subwatershed master plan will include Birch Point, the Terrell Creek urban area, and Point Whitehorn. As with previous subwatershed master plans (Central North and Central South Subwatersheds), this plan will evaluate the condition of stormwater systems and identify capital improvement projects, small projects, and maintenance needs that will be incorporated into the BBWARM capital and maintenance programs.

Term of Contract: Expiration Date: June 30, 2017

Contract Routing:
1. Prepared by: R. McConnell Date: 6/17/15
2. Attorney signoff: Daniel L. Gibson Date: 6/25/15
3. AS Finance reviewed: bbennett Date: 6/25/15
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:
Tetra Tech Inc, hereinafter called Contractor, and Whatcom County Flood Control Zone District, hereinafter referred to as County, agree and contract as set forth in this Agreement, including:

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

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

The term of this Agreement shall commence on the 8th day of July 2015, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 30th day of June 2017.

The general purpose or objective of this Agreement is to assist with development of the Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master 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 ONE HUNDRED SEVENTY-FOUR THOUSAND, TWO HUNDRED TWENTY-SEVEN AND NO/100 DOLLARS ($174,227.00). 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 ___ day of _____________, 20__.

CONTRACTOR:

Tetra Tech Inc,

Dave Servis, Vice President

STATE OF WASHINGTON

COUNTY OF King

On this 25 day of June 2015 before me personally appeared DAVE SERVIS to me known to be a VICE PRESIDENT of TETRA TECH, INC., 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 3rd Ave. My commission expires 5/19/15.
WHATCOM COUNTY:
Recommended for Approval:

Jon Hutchings  6/29/15
Public Works Director

Approved as to form:

Daniel L. Gibson  7/1/15
Chief Civil Deputy Prosecutor

Approved:
Accepted for Whatcom County Flood Control Zone District:

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

STATE OF WASHINGTON  )
    ss
COUNTY OF WHATCOM  )

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

NOTARY PUBLIC in and for the State of Washington, residing at
___________________________. My commission expires ____________________

CONTRACTOR INFORMATION:

Tetra Tech Inc.
Dave Servis, Vice President
Address:
1420 Fifth Avenue, Suite 550
Seattle, WA 98101

Contact Name: Jerry Scheller
Contact Phone: 206-883-9414
Contact Fax: 206-883-9301
Contact Email: jerry.scheller@tetratech.com
GENERAL CONDITIONS

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

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

Series 10-19: Provisions Related to Term and Termination

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

10.2 Extension: Not Applicable

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

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

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

Series 20-29: Provisions Related to Consideration and Payments

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

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

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

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

22.1 Withholding Payment:
In the event the County’s Administrative Officer determines that the Contractor has failed to perform any obligation under this Agreement within the times set forth in this Agreement, then the County may withhold from amounts otherwise due and payable to Contractor the amount determined by the County as necessary to cure the default, until the Administrative Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to termination or damages, provided that the County promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 10 days after it determines to withhold amounts otherwise due. A determination of the Administrative Officer set forth in a notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Agreement. The County may act in accordance with any determination of the Administrative Officer which has become conclusive under this clause, without prejudice to any other remedy under the Agreement, to take all or any of the following actions: (1) 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 labor 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 expenses accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

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

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

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

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

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

32.1 **Confidentiality:**
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 insurance with the following minimums:
1) **Commercial General Liability:**
   a) Property Damage - $500,000.00 per occurrence;
   b) Bodily injury - $1,000,000.00 per occurrence.

   A Certificate of insurance that also identifies the County as an additional insured on the commercial general liability policy is attached hereto as Exhibit "C". This insurance shall be considered as primary and non-contributory and shall waive all rights of subrogation. The County insurance shall not serve as a source of contribution.

2) **Professional Liability** - $1,000,000 per occurrence:
   If the professional liability insurance is a claims made policy, and should the contractor discontinue coverage either during the term of this contract or within three years of completion, the contractor agrees to purchase tail coverage for a minimum of three years from the completion date of this contract or any amendment to this contract.

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

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

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

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

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

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

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

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

36.2 **Conflict of Interest:**
If at any time prior to commencement of, or during the term of this Agreement, Contractor or any of its employees involved in the performance of this Agreement shall have or develop an interest in the subject matter of this Agreement that is potentially in conflict with the County's interest, then Contractor shall immediately notify the County of the same. The notification of the County shall be made with sufficient specificity to enable the County to make an informed judgment as to whether or not the County's interest may be compromised in any manner by the existence of the conflict, actual or potential. Thereafter, the County may require the Contractor to take reasonable steps to remove the conflict of interest. The County may also terminate this contract according to the provisions herein for termination.

37.1 **Administration of Contract:**

Contract for Services
Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master Plan
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:

Jon Hutchings, Director, Whatcom County Public Works, 322 N. Commercial Street #210, Bellingham, WA 98225

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

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

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

38.3 E-Verify: Not Applicable

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

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

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

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

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

42.1 Disputes:

a. General:
Differences between the Contractor and the County, arising under and by virtue of the Contract Documents, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Except for such objections as are made of record in the manner hereinafter specified and within the time limits stated, the records, orders, rulings, instructions, and decisions of the Administrative Officer shall be final and conclusive.

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

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

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

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

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

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

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

BIRCH POINT, TERRELL CREEK URBAN AREA, AND POINT WHITEHORN SUBWATERSHED MASTER PLAN

SCOPE OF WORK

June 23, 2015

The Birch Bay Watershed Aquatic Resource Management (BBWARM) District was established as a special purpose district to manage stormwater in the Birch Bay watershed. Earlier planning efforts initiated by Whatcom County identified sensitive areas within the watershed that should be protected and also areas where development should be allowed. For the developing areas, watershed master planning is used to address deficiencies in the current stormwater infrastructure and to plan for future infrastructure needs. The Subwatershed Master Plans for the Central North and Central South Subwatersheds are complete and the Birch Point Subwatershed, Terrell Creek Urban Area, and Point Whitehorn Subwatershed have been identified as the next subwatersheds for this planning effort. This subwatershed master plan will use the Central South Subwatershed Master Plan (Tetra Tech, 2015) as the template for this planning effort.

The Birch Point Subwatershed is located at the north end of the Birch Bay watershed west of the Central North Subwatershed. The subwatershed extends from 1/4 mile west of Shintafter Road, south to Birch Bay and west to Semiahmoo Bay. The subwatershed area is about 1,950 acres and is comprised of the Birch Bay South, Semiahmoo Uplands, Birch Bay Marina, Roger’s Slough, Roger’s Slough Lower Trib. and Roger’s Slough Upper Trib subbasins. The study area also includes a 580 acre subbasin west of the Birch Point Subwatershed that drains directly to Semiahmoo Bay.

The Terrell Creek Urban Area includes the Terrell Creek subbasins within in the Birch Bay urban growth boundary area that were not included in the recently completed Central South Subwatershed Plan. This area is located in the central portion of the Birch Bay watershed immediately south of the Central South subwatershed. The subwatershed is located at the intersection of Jackson Road and Bay Road. The subwatershed area is 480 acres and comprised of the Terrell Creek Estuarine Reach and Terrell Creek Upper Trib 1.

The Point Whitehorn Subwatershed is at the south end of the Birch Bay watershed west of the Terrell Creek Subwatershed. The subwatershed is located along Grandview Road west of Karber Road and extends west to Birch Bay. The subwatershed area is about 540 acres and is comprised of the Point Whitehorn and Point Whitehorn Uplands subbasins. The study area also includes a 620 acre subbasin south of the Birch Point Subwatershed that drains directly to Puget Sound.

Figure A-1 shows the study area.

This scope of work describes the tasks and subtasks associated with the preparation of the Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master Plan. The following tasks include a description of the work involved and the associated deliverable(s) for that task.

TASK 1 PUBLIC OUTREACH

Keeping the public abreast of the progress of the subwatershed master plan helps demonstrate the tangible benefits of the plan and builds support within the community. With this in mind, the project team will perform the following tasks:
1.1 Hold three public information meetings as directed by the County. Tetra Tech will consult with the County on the discussion topics, time and location for public information meeting as project work proceeds. The County will arrange for a meeting site and will advertise the meeting in advance.

1.2 Prepare up to three presentation graphics for use at public meetings.

1.3 Prepare two 30-minute PowerPoint presentation summarizing the findings of the investigations performed to support the Birch Point, Terrell Creek Urban Subbasins, and Point Whitehorn Subwatershed master plan.

Task 1 Deliverables:
- Attendance at three public meeting
- Attendance at three informal meetings with stakeholders
- Up to 3 presentation graphics for public meetings
- Two 30-minute PowerPoint presentations

**TASK 2 SYSTEM INVENTORY**

Information relating to the drainage system will be updated and reviewed under this task. Task 2 will begin by reviewing the final submission version of the storm Geodatabase from the Central South subwatershed inventory performed in 2012 and fixing any data inconsistencies. Furthermore, data created from recent capital projects constructed in the Birch Bay watershed (i.e. Beachway and Fern Park Stormwater Improvements) will be added to the storm Geodatabase. The inventory will be limited to the area represented in Figure A-1.

2.1 Tetra Tech will review the final submission version of the storm Geodatabase from the South Central Birch Bay Inventory and make a list of data inconsistencies that may have occurred from data loading and correct problems found in the Geodatabase. Tetra Tech will also obtain as-built drawings (when available) and extract GIS features for the recent drainage projects constructed in the Birch Bay watershed and add the geometries and available attributes into the storm Geodatabase.

2.2 Develop a preliminary GIS-based geospatial database of the drainage network to analyze data gaps and prepare a map of the stormwater conveyance system. Tetra Tech will compile all newly inventoried data collected by the County and integrate the new features and feature attributes into the County’s adopted Stormwater Geodatabase. Tetra Tech will prepare Federal Geographic Data Committee (FGDC)-compliant metadata that will include methods used in stormwater inventory data collection.

2.3 Incorporate additional stormwater inventory into final GIS database.

1. Tetra Tech compiles GIS-based storm network using inventory data collected by Whatcom County.
2. Tetra Tech updates coordinate information for the storm network compiled from the data collected in Task 3 for use in modeling, mapping, and deliverable geodatabase production.
3. Tetra Tech compiles all storm data into the County’s adopted storm geodata model based on the ESRI local government template. Tetra Tech will complete the FGDC-compliant metadata form in ArcCatalog for each storm layer created from the inventory.

This scope of work assumes Whatcom County will provide a basic inventory and condition assessment for the study area as described below:
• The inventory area is shown in Figure A-1.
• Each data point will be collected with state plane X and Y coordinates to match the County’s standard
  map coordinate and projection system.
• All data downloaded from the data collectors will be provided in a standardized data format which
  may be GIS files (geodatabase or shapefile), comma delimited, or spreadsheet.
• Pipe size, shape, material, condition, and depth of sediment (if present).
• Measure-down depth from catch basin rim to pipe invert.
• All data fields for each record must be populated with either a data value or marked as “unknown,”
  “inaccessible,” or “non-applicable” if no data value was collected.
• A reasonable effort (meaning all assets that are safely accessible from a road or access point) will be
  expended to inventory each specified asset in the field within the inventory area. Points that are
  temporarily inaccessible due to parked vehicles or other obstructions should be revisited and included
  in the inventory.
• Tetra Tech will request corrections to be provided by the County if missing or incomplete data is
  found during the review process.

Task 2 Deliverable:

• Geodatabase of stormwater system inventory that includes assets mapped in the Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatersheds as well as repairs and updates as specified in Task 2.1.

• Map of stormwater system inventory collected under this task and Task 3.

TASK 3  SURVEY SUPPORT

Tetra Tech, or their subcontractor, will survey the storm drain features needed to support the hydrologic
and hydraulic modeling described in Task 4.

3.1 Prior to the start of data collection activities, Tetra Tech will meet with the survey subcontractor to
review the scope and data collection procedures. During this meeting, Tetra Tech and the
subcontracted surveyor will develop a format for delivering the data to Tetra Tech.

Tetra Tech, or their subcontractor, will survey inventory data shown in Table 1 for the following
stormwater features:

• Catch Basins (CB) – Rim elevation at center of lid. Catch basins will be identified by
  Whatcom County as part of the Task 2 inventory data collection.
• Culverts Ends (CE) – Pipe and culvert inlets and outlets 8” and greater.
• Ditch Centerline Shots (DITCH) – Bottom of ditch centerline elevations at start and end of
  ditch and at interior locations marked by Tetra Tech.
• The direction of flow shall be recorded using cardinal-inter-cardinal directions – NW, N,
  NE, E, SE, S, SW, W.

3.2 Tetra Tech will provide a detailed list of storm features that need to be surveyed. Storm features data
will be collected by the survey subcontractor for X, Y, and Z coordinates using survey grade and total
station equipment. These points will be identified as important for the hydraulic modeling effort.
TABLE 1  
INVENTORY DATA COLLECTION

<table>
<thead>
<tr>
<th></th>
<th>Catch Basin</th>
<th>Outfalls</th>
<th>Culverts</th>
<th>Ditch Centerline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assumed number of points</td>
<td>320</td>
<td>0</td>
<td>100</td>
<td>20</td>
</tr>
<tr>
<td>Location in state plane X and Y coordinates</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Catch basin rim, pipe or ditch invert elevation</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pipe diameter</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pipe material</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pipe shape</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Direction of flow</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3.3 Tetra Tech will compile all inventory data provided by the survey contractor into the storm Geodatabase prepared under Task 2. Data points and flow arrows collected by the County under previous inventory efforts will be only used as general reference.

3.4 The survey contractor will provide the post processed data in an electronic ASCII file with all point numbers, coordinates, elevations, and descriptors for each survey point.

Vertical datum: NAVD1988

Task 3 Deliverable:
- Survey data post-processed into a comma-delimited format.

task 4 hydrologic and hydraulic modeling

Stormwater runoff will be characterized using hydrologic and hydraulic (H&H) modeling to analyze the impacts of existing land use in the subwatershed. Flow generated from the hydrologic modeling will be used in the hydraulic modeling to identify flooding areas in the subwatersheds. The following subtasks will be performed to support the H&H modeling:

4.1 Develop a hydrologic model for the Birch Point and Point Whitehorn Subwatersheds using continuous simulation modeling
- Review and revise subbasin delineation for subbasins in the study area.
- Sub-delineate subbasins into 18 separate model subcatchments.
- Analyze existing land use conditions. Existing land use will be based on on-site observations and aerial photography and impervious coverage database. Measured continuous flow data is not available for this system so no calibration will be performed. Instead the hydrologic modeling will use regional runoff parameters developed for local areas with similar hydrologic characteristics.
- Compute flood-frequency for runoff from subwatersheds to identify peak storm events for use in the hydraulic modeling. Flood-frequency estimated for the 2-, 10-, 25-, 50, and 100-year return period.
- Extract representative hydrographs from long-term flow output record for 2-, 25-, and 100-year events. 100-year event hydrograph may be scaled from largest simulated event if the peak flow
is less than the estimated 100-year peak flow value. Hydrographs will be developed for the existing land use condition.

4.2 Prepare system wide hydraulic models for six drainage networks using the EPA-SWMM model.
- Prepare EPASWMM models using inventory data collected as part of Task 2.
- Evaluate hydraulic system performance for 2-, 25-, and 100-year events for existing land use condition.
- Evaluate performance of 15 sediment ponds located in the vacant parcel east of Semiahmoo Drive and north of Birch Bay village.
- Major drainageways in Birch Bay Village are included in this task.
- Verify existing flooding problems and identify new flood problem areas.

4.3 Document H&H analysis

Task 4 Deliverable:
- One hydrologic models of 18 subbasins for existing land-use
- Flood frequency of the subwatershed runoff
- Hydraulic models for 6 storm drainage systems and 15 sediment ponds
- Hydraulic performance evaluation for 2-, 25-, and 100-year design hydrographs for existing land use conditions
- Technical memorandum documenting H&H analysis.

TASK 5 SUBWATERSHED CHARACTERIZATION

The methodology and results developed from the above subtasks will be compiled into draft chapters for the subwatershed master plan report to characterize drainage related environmental factors for the Birch Point subwatershed, Terrell Creek Urban Area, and Point Whitehorn subwatershed. Report content will draw extensively from the technical documentation prepared under each of the preceding tasks. The characterization chapters will include a description of subwatershed characteristics affecting stormwater runoff, system inventory, and identification of problems. Key products developed from the preceding subtasks may be included as appendices when appropriate. The characterization report task will include the following subtasks:

5.1 Identify and describe subwatershed characteristics including a description of the surface water system, topography, soils, wetlands, land use. Subwatershed characterization will be developed from existing published data sources.

5.2 Assess previously identified stormwater-related problems documented in the Birch Bay Incident Entry Forms and the Birch Bay Comprehensive Stormwater Plan to identify unresolved issues. Tetra Tech will document and investigate additional stormwater problems identified in Task 1 Public Outreach, Task 2 System Inventory, Task 3 Survey Support, and Task 5 Hydrologic and Hydraulic Modeling. Document identification source, location, frequency of problem, responsibility, problem type, and a brief description in tabular format. Drainage problems identified for Birch Bay Village area will be included in the documentation of drainage problems.

5.3 Develop up to ten report-sized map graphics.

5.4 Prepare draft report chapters documenting subwatershed characterization. An electronic copy in PDF format will be submitted to the County for review.
5.5 Prepare final chapters incorporating county comments. An electronic copy, in PDF format, will be submitted to the County. Subwatershed characterization will be published as Chapters 1 – 4 of the Subwatershed Master Plan described in Task 8.

Task 5 Deliverable:
- Tabular summary of stormwater related problems
- 10 report graphics
- Final subwatershed characterization chapters for Subwatershed Master Plan Report in electronic format.

TASK 6 CIP PROGRAM

After gathering information on the existing drainage system and obtaining input from County staff, the project team will analyze characteristics of the system and recommend improvements to address system deficiencies and meet regulatory requirements.

6.1 Reevaluate capital projects developed under the Birch Bay Comprehensive Stormwater Plan. Identify projects from the BBCSWP that should be retained in the Stormwater Subwatershed Master Plan and document reasons for projects that are excluded.

6.2 Identify small works projects that can be implemented by County crews. Small works projects are assumed to be projects with minimal engineering, design, and permitting requirements.

6.3 Develop capital projects that will solve problems identified in Tasks 2 and 4. Projects will consider traditional solutions such as the addition of catch basins to drain low spots, identifying new curb and gutter locations, or adding new pipelines where the existing drainage infrastructure is inadequate and will also consider and low-impact development and green building techniques. It is anticipated that ten new capital projects will be identified. Facility sizing may be performed using computer models developed as part of Task 4. Qualitative methods may be used where appropriate for relatively simple CIP configurations.

6.4 Prepare a cost estimate for each of the identified improvement projects. Unit costs will be estimated, in order of preference, based upon recent local bid tabs, regional unit cost summaries, and by generalized unit costs. Land requirements and unit area costs will be included in the cost estimate for those facilities, such as regional or local detention sites, that compose an identified improvement.

6.5 Prepare two-page project summary sheets describing the proposed CIP project. Project summary sheets will include the following:
- Problem Description
- Project Description
- Concept Sketch where appropriate
- Cost Estimate
- Evaluation Summary

6.6 Provide technical guidance to County staff and other consultant staff developing projects in the Birch Point and Point Whitehorn subwatersheds.

Task 6 Deliverables:
SCOPE OF WORK

- CLIP project summary sheets
- Conceptual project cost estimates for each identified project.
- Technical guidance to County and consultant staff

TASK 7 PROJECT PRIORITIZATION

Develop a project prioritization based on logical infrastructure development of new stormwater facilities and retrofitting existing drainage systems.

7.1 Prioritize and rank the identified improvement projects using the evaluation matrix documented in previous subwatershed planning efforts.

7.2 Prepare a combined prioritization of all capital projects identified in this subwatershed master plan and projects from previous Birch Bay subwatershed master planning efforts but not yet constructed. The prioritization would include a summary narrative as an appendix describing how to prioritize projects in the future and the factors to consider that would initiate the reprioritization process.

7.3 Attend a 3-hour workshop with County staff and Advisory committee members to evaluate and prioritize the combined list of capital projects.

Task 7 Deliverables:

- Project prioritization for current subwatershed plan
- Combined project prioritization for all capital project in the Birch Bay watershed
- Narrative describing combined prioritization process.
- Attendance at one workshop with County and Advisory Committee members.

TASK 8 SUBWATERSHED MASTER PLAN

The methodology and results developed from Tasks 1 – 7 will be compiled into the Birch Point and Point Whitehorn Subwatershed Master Plan. It is assumed that the format of the master plan will follow use the previously completed master plans for the Central North and Central South subwatersheds as a template. Key products developed from the preceding subtasks may be included as appendices when appropriate. The document is intended to pull together the analysis and procedures used to arrive at the ranked priority project list. The final plan will include the Characterization Report completed as part of Task 5. A SEPA checklist will be prepared to document the environmental impacts of the Central Uplands Stormwater Subwatershed Master Plan.

8.1 Prepare draft and final SEPA Checklist. It is assumed that no new analysis will be prepared to support the SEPA checklist documentation. Instead, analysis performed for this plan and earlier planning efforts is assumed to adequately characterize environmental impacts. SEPA checklist will be submitted to the County as an electronic copy of the draft SEPA checklist, in PDF format. A final SEPA checklist will be prepared after incorporating County review comments.

8.2 Prepare Draft Birch Point and Point Whitehorn Subwatershed Master Plan. An electronic copy, in PDF and WORD formats, will be submitted to the County for review.

8.3 Prepare Final Draft Birch Point and Point Whitehorn Subwatershed Master Plan incorporating County comments. An electronic copy, in PDF and WORD formats, will be submitted to the County.
Figure A-1 Birch Point and Point Whitehorn Subwatershed Study Area
<table>
<thead>
<tr>
<th>ID</th>
<th>Task Name</th>
<th>Duration</th>
<th>Start</th>
<th>Finish</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1. Public Outreach</td>
<td>261 days</td>
<td>Thu 11/19/15</td>
<td>Thu 11/17/16</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>1 day</td>
<td>Thu 11/19/15</td>
<td>Thu 11/19/15</td>
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<tr>
<td>3</td>
<td>Public Meeting 1</td>
<td>1 day</td>
<td>Thu 6/16/16</td>
<td>Thu 6/16/16</td>
</tr>
<tr>
<td>4</td>
<td>Public Meeting 2</td>
<td>1 day</td>
<td>Thu 11/17/16</td>
<td>Thu 11/17/16</td>
</tr>
<tr>
<td>5</td>
<td>Public Meeting 3</td>
<td>1 day</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>2. System Inventory</td>
<td>100 days</td>
<td>Mon 7/13/15</td>
<td>Fri 11/27/15</td>
</tr>
<tr>
<td>7</td>
<td>Inventory Data Collection (by County)</td>
<td>60 days</td>
<td>Mon 7/13/15</td>
<td>Fri 10/2/15</td>
</tr>
<tr>
<td>8</td>
<td>2.1 Prepare Preliminary Stormwater Database</td>
<td>15 days</td>
<td>Fri 10/2/15</td>
<td>Thu 10/22/15</td>
</tr>
<tr>
<td>9</td>
<td>2.2 Prepare Final Stormwater Database</td>
<td>15 days</td>
<td>Mon 11/9/15</td>
<td>Fri 11/27/15</td>
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<tr>
<td>10</td>
<td>3. Field Survey</td>
<td>60 days</td>
<td>Mon 8/17/15</td>
<td>Fri 11/6/15</td>
</tr>
<tr>
<td>11</td>
<td>4. Hydrologic and Hydraulic Modeling</td>
<td>125 days</td>
<td>Mon 9/14/15</td>
<td>Fri 3/4/16</td>
</tr>
<tr>
<td>12</td>
<td>5. Subwatershed Characterization</td>
<td>140 days</td>
<td>Mon 10/19/15</td>
<td>Fri 4/29/16</td>
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<tr>
<td>13</td>
<td>6. CIP Program</td>
<td>75 days</td>
<td>Mon 3/14/16</td>
<td>Fri 6/24/16</td>
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<tr>
<td>14</td>
<td>7. Phasing Plan</td>
<td>146 days</td>
<td>Mon 5/2/16</td>
<td>Mon 11/21/16</td>
</tr>
<tr>
<td>15</td>
<td>7.1 Prioritization</td>
<td>20 days</td>
<td>Mon 7/4/16</td>
<td>Fri 7/29/16</td>
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<tr>
<td>16</td>
<td>7.2 Workshop</td>
<td>1 day</td>
<td>Mon 11/21/16</td>
<td>Mon 11/21/16</td>
</tr>
<tr>
<td>17</td>
<td>8. Stormwater Master Plan</td>
<td>270 days</td>
<td>Mon 12/7/15</td>
<td>Fri 12/16/16</td>
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<td>18</td>
<td>9. Project Management</td>
<td>515 days</td>
<td>Mon 7/13/15</td>
<td>Fri 6/30/17</td>
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**EXHIBIT "B" (COMPENSATION)**

**Birch Point - Point Whitehorn**

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**Price Summary / Totals**

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</tr>
<tr>
<td>Total</td>
<td>174,227</td>
</tr>
</tbody>
</table>

**Budget Narrative:** Contract amounts shall not exceed the total budget referenced (above). As consideration for services provided in Exhibit A, Scope of Work, the County agrees to compensate the contractor according to the hourly rates provided in the project budget (Exhibit B). Other reasonable expenses incurred in the course of performing the duties herein shall be reimbursed including mileage at the current IRS rate. Lodging and per diem shall not exceed the GSA rate for the location where services are provided. Other expenditures such as printing, postage, and telephone charges shall be reimbursed at actual cost plus 10%. Expense reimbursement requests must be accompanied by copies of paid invoices. Any work performed prior to the effective date or continuing after the completion date of the contract, unless otherwise agreed upon in writing, will be at the contractor’s expense.

**Contract for Services**

Birch Point, Terrell Creek Urban Area, and Point Whitehorn Subwatershed Master Plan
**EXHIBIT "C"**

**CERTIFICATE OF LIABILITY INSURANCE**

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERRS 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 INSURING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

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

**PRODUCER**

Aon Risk Insurance Services West, Inc.
Los Angeles CA Office
707 Wilshire Boulevard
Suite 3600
Los Angeles CA 90017-0660 USA

**INSURED**

Tetra Tech, Inc.
1240 5th Avenue, Suite 550
Seattle WA 98101 USA

**COVERAGE**

**CERTIFICATE NUMBER: 575658197237**

**REVISION NUMBER:**

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

<table>
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**COVERAGE**

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<tr>
<td>A AUTOMOBILE LIABILITY</td>
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</tr>
<tr>
<td>A PERSONAL LIABILITY</td>
<td>1,000,000</td>
<td>1,000,000</td>
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**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 191)**

**RE: Tetra Tech Project: Birch Point, Terrell Creek Urban Area and Point Whitehorn Subwatershed Master Plan. Whatcom County Public works-stormwater is included as additional insured in accordance with the policy provisions of the General Liability and Automobile Liability policies as required by written contract. General Liability policy evidenced herein is Primary, and Non-Contributory to other insurance available to additional insured, but only in accordance with the policy's provisions as required by written contract. A waiver of subrogation is granted in favor of Whatcom County Public works-stormwater in accordance with the policy provisions of the General Liability policy as required by written contract.**

**CERTIFICATE HOLDER**

Whatcom County Public Works-Stormwater
4th. #10 McCollum, CAM-01
272 Commercial St, Suite 301
Bellington WA 98227 USA

**CANCELLATION**

**AUTHORIZED REPRESENTATIVE**

Aon Risk Insurance Services West, Inc.

©1988-2014 ACORD CORPORATION. All rights reserved.
ENDORSMENT

This endorsement, effective 12:01 A.M. 10/01/2014 forms a part of Policy No. GL5388413 issued to Tetra Tech, Inc.

By: National Union Fire Insurance Company of Pittsburgh, PA

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the Insurer cancels this policy for any reason other than non-payment of premium, and

1. the cancellation effective date is prior to this policy's expiration date;

2. the First Named Insured is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the "Certificate Holder(s)") and has provided to the Insurer, either directly or through its broker of record, the email address of a contact at each such entity; and

3. the Insurer received this information after the First Named Insured receives notice of cancellation of this policy and prior to this policy's cancellation effective date, via an electronic spreadsheet that is acceptable to the Insurer;

the Insurer will provide advice of cancellation (the "Advice") via e-mail to each such Certificate Holders within [30] days after the First Named Insured provides such information to the Insurer; provided, however, that if a specific number of days is not stated above, then the Advice will be provided to such Certificate Holder(s) as soon as reasonably practicable after the First Named Insured provides such information to the Insurer.

Proof of the Insurer emailing the Advice, using the information provided by the First Named Insured, will serve as proof that the Insurer has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. First Named Insured means the Named Insured shown on the Declarations Page of this policy.

2. Insurer means the insurance company shown in the header on the Declarations page of this policy.

All other terms, conditions and exclusions shall remain the same.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ENDORSEMENT

This endorsement, effective 12:01 A.M. 10/01/2014 forms a part of
Policy No. CA5101755 issued to Tetra Tech, Inc.

By: National Union Fire Insurance Company of Pittsburgh, PA

LIMITED ADVICE OF CANCELLATION PROVIDED VIA E-MAIL
TO ENTITIES OTHER THAN THE FIRST NAMED INSURED

This policy is amended as follows:

In the event that the Insurer cancels this policy for any reason other than non-payment of
premium, and

1. the cancellation effective date is prior to this policy's expiration date;

2. the First Named Insured is under an existing contractual obligation to notify a
certificate holder when this policy is canceled (hereinafter, the "Certificate
Holder(s)"") and has provided to the Insurer, either directly or through its broker of
record, the email address of a contact at each such entity; and

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Insured, will serve as proof that the Insurer has fully satisfied its obligations under this
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cancellation of this policy or the effective date thereof, nor shall this endorsement invest any
rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. First Named Insured means the Named Insured shown on the Declarations Page of this
policy.
2. Insurer means the insurance company shown in the header on the Declarations page of
this policy.

All other terms, conditions and exclusions shall remain the same.
ENDORSEMENT

This endorsement, effective 12:01 AM  10/01/2014

Forms a part of policy no.: 028182375

Issued to: TETRA TECH, INC., ET AL

By: LEXINGTON INSURANCE COMPANY

ADVICE OF CANCELLATION TO ENTITIES OTHER THAN THE NAMED INSURED LIMITED
TO E-MAIL NOTIFICATION

This policy is amended as follows:

In the event that the Insurer cancels this policy for any reason other than non payment of premium, and

1. The cancellation effective date is prior to this policy’s expiration date;

2. The First Named Insured is under an existing contractual obligation to notify a certificate holder when this policy is canceled (hereinafter, the “Certificate Holder(s)”); and has provided to the Insurer, either directly or through its broker of record, the email address of the contact at such entity,

and the Insurer received this information after the First Named Insured receives notice of cancellation of this policy and prior to this policy’s cancellation effective date, via an electronic spreadsheet that is acceptable to the Insurer,

the Insurer will provide advice of cancellation (the “Advice”) via e-mail to such Certificate Holders.

Proof of the Insurer emailing the Advice, using the information provided by the First Named Insured, will serve as proof that the Insurer has fully satisfied its obligations under this endorsement.

This endorsement does not affect, in any way, coverage provided under this policy or the cancellation of this policy or the effective date thereof, nor shall this endorsement invest any rights in any entity not insured under this policy.

The following Definitions apply to this endorsement:

1. First Named Insured means the Named Insured shown on the Declarations Page of this policy.

2. Insurer means the insurance company shown in the header on the Declarations Page of this policy.

All other terms, conditions and exclusions shall remain the same.
# WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
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<td></td>
<td>July 21, 2015</td>
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<td>Paula J Cooper</td>
<td>🅰️🣂️</td>
<td>7-6-15</td>
<td></td>
<td></td>
<td>as the WCPZDDBS</td>
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<tr>
<td>Devotion Head:</td>
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<tr>
<td>Gary Stoyka</td>
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<tr>
<td>Jon Hutchings</td>
<td>🅱️lıkları</td>
<td>7/8/15</td>
<td></td>
<td></td>
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<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Dan Gibson</td>
<td>🅱️ ليبيي</td>
<td>6/10/15</td>
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<td></td>
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<td></td>
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<tr>
<td>Jack Laws</td>
<td>🅱️ روبن</td>
<td>7/13/15</td>
<td></td>
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</tbody>
</table>

**TITLE OF DOCUMENT:**
Interlocal Agreement with Bertrand Watershed Improvement District for de Boer Levee Repair and Culvert Replacement Project

**ATTACHMENTS:**
Cover memorandum

**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.)

This agreement provides for a $10,000 contribution from the Bertrand Watershed Improvement District towards the de Boer Levee Repair and Culvert Replacement Project.

**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 Members of the Whatcom County
    Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
       Gary Stoyka, Natural Resources Manager

RE: Interlocal Agreement with Bertrand Watershed Improvement District for
     de Boer Levee Repair and Culvert Replacement Project

DATE: July 6, 2015

Enclosed are two (2) originals of an Interlocal Agreement between the Whatcom County Flood
Control District and the Bertrand Watershed Improvement District for your review and signature.

Requested Action
Public Works respectfully requests that the County Executive, and the County Council, acting as
the Flood Control Zone District (FCZD) Board of Supervisors, enter into an Interlocal Agreement
with the Bertrand Watershed Improvement District (BWID) for the de Boer levee repair and
culvert and flood gate replacement project.

Background and Purpose
Several high water events over the past winter resulted in failure of the levee crossing an
unnamed tributary to the Nooksack River near Trigg Road. The levee provides flood protection
to approximately 350 acres of farmland and the access road to the Public Utility District’s (PUD)
water intake. Without the levee, this area would be subject to flooding at a river stage that is ten
feet lower than what it takes to cause flooding when the levee is intact. A culvert with a flap gate
through the levee drains floodwaters from approximately 1000 acres extending upstream to the
Bertrand Creek area.

A temporary sandbag berm was installed over the existing culvert to provide immediate
protection for this growing season, while a more permanent repair project was designed and
permitted. The current culvert with the flood gate comprises a barrier to fish and we are required
to provide fish passage as part of the project. The design includes a larger culvert and a self-
regulating (SRT) tide gate, to replace the flap gate on the old culvert. The SRT gate is hinged
on the side and is open most of the time, providing fish passage unless upstream water levels
rise to a set elevation.

Funding Amount and Source
Funding for the project is from the FCZD fund and includes cost-shares from the PUD, Diking
District #4 (DD#4) and the Bertrand Watershed Improvement District (BWID). The total project
cost is estimated at $200,000. The attached ILA provides for a $10,000 contribution from the
BWID. The FCZD Advisory Committee recommended this project with a local cost-share of $10,000 from the PUD and $20,000 from DD#4 at their May 14\textsuperscript{th} meeting. Since that time, DD#4 has requested a contribution from the BWID to offset their costs as they are also contributing towards the Bertrand Creek levee repairs.

Because this project improves the flood control system over the condition prior to the damage, the project is considered a flood hazard reduction project for purposes of the Flood Control Construction Cost-Share Program (WCC 100.05). The cost-share program specifies a 30\% cost-share for repair projects, but allows for the cost-share for flood hazard reduction projects to be determined by the Board of Supervisors on a case-by-case basis.

Please contact Paula Cooper at extension 50625, if you have any questions or concerns regarding the terms of this agreement.

Encl.
# WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Public Works River & Flood  
**Contract or Grant Administrator:** Paula Cooper  
**Contractor's / Agency Name:** Bertrand Watershed Improvement District

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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<tbody>
<tr>
<td>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>No □ Yes ☒</td>
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<tr>
<td>Does contract require Council Approval? If No, include WCC:</td>
<td>Yes ☒ No □</td>
</tr>
<tr>
<td>Is this a grant agreement? If yes, grantor agency contract number(s):</td>
<td>☒ No □</td>
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<tr>
<td>Is this contract grant funded? If yes, Whatcom County grant contract number(s):</td>
<td>☒ No □</td>
</tr>
<tr>
<td>Is this contract the result of a RFP or Bid process? Contract Cost Center:</td>
<td>Yes ☒ No □</td>
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<tr>
<td>Is this agreement excluded from E-Verify? If no, include Attachment D Contractor Declaration form.</td>
<td>No □ Yes ☒</td>
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</table>

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 for Commercial off the shelf items (COTS).  
- Work related subcontract less than $25,000.  
- Public Works - Local Agency/Federally Funded FHWA.  
- 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.

**Contract Amount:** (sum of original contract amount and any prior amendments):  
$10,000.00

This Amendment Amount:  
$

Total Amended Amount:  
$

**Summary of Scope:** Cost share contribution toward DeBoer levee repair and culvert replacement project

<table>
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<th>Term of Contract</th>
<th>Lump sum</th>
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Contract Routing:  
1. Prepared by: Paula Cooper  
2. Attorney signoff: Daniel L. Gibson  
3. AS Finance reviewed: bbennett  
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:  

Date: 06/19/2015  
Date: 06/24/15  
Date: 07/06/2015  
Date: 07/12/15  
Date: 060414

Last Edited 060414
INTERLOCAL AGREEMENT BETWEEN
THE WHATCOM COUNTY FLOOD CONTROL DISTRICT AND
BERTRAND WATERSHED IMPROVEMENT DISTRICT

deBoer Levee Repair and Culvert Replacement – Unnamed Tributary to the Nooksack River
Financial Support

THIS INTERLOCAL AGREEMENT (the "Agreement") is made and entered into by the
Whatcom County Flood Control Zone District (FCZD), 322 N. Commercial Street, Bellingham, WA
98225, and the Bertrand Watershed Improvement District (BWID), 1796 Front Street, Lynden, WA
98264,

WHEREAS, the Nooksack River, located in Whatcom County and partially within Bertrand
Watershed Improvement District (BWID), has had a history of flooding during high-water events; and

WHEREAS, several high water events over the last winter resulted in washout of a levee over
an unnamed tributary to the Nooksack River, which included a flood gate for drainage; and

WHEREAS, the FCZD is developing a project to repair the levee breach to reduce the potential
for flooding; and

WHEREAS, the project design includes replacing the existing culvert and flood gate with a
much larger culvert and a side-swing self-regulating flood gate; and

WHEREAS, the larger culvert will reduce the time required to drain floodwaters that overtop as
far upstream as Bertrand Creek, providing improved drainage of flood overflows from approximately
1000 acres; and

WHEREAS, the new flood gate can be set to be open most of the time and only close when the
upstream water elevation exceeds a set level, which will significantly improve fish passage through the
structure; and

WHEREAS, it is in the interest of both the FCZD and BWID to implement projects that improve
fish passage and agricultural drainage; and

WHEREAS, the project will improve conditions rather than just repair them to their pre-damage
condition and thus is considered a flood hazard reduction project under the FCZD's Flood Control
Construction Cost Share Program in accordance with Whatcom County Code 100.05; and

WHEREAS, consistent with the program, financial participation of the district and local sponsors
for flood hazard reduction projects are determined on a case-by-case basis by the FCZD Board of
Supervisors; and

WHEREAS, Diking District #4 has requested and the BWID is willing to provide a contribution to
the project to support the diking district as the local sponsor for the project; and

WHEREAS, it is in the best interest of the Parties to enter into this Interlocal Agreement,

NOW, THEREFORE, the Flood Control Zone District and the Bertrand Watershed Improvement
District agree as follows:

Interlocal Agmt –BWID – Levee Repair
TERMS AND CONDITIONS

**BWID Responsibilities:** The BWID will contribute the amount of ten thousand dollars ($10,000.00) towards the project cost. Payment will be lump sum, payable to the Whatcom County Flood Control Zone District upon receipt of an invoice after construction is complete.

**FCZD Responsibilities:** The Whatcom County Flood Control Zone District shall expeditiously complete the Project, pursuant to applicable laws, regulations and policies.

**Term:**
This agreement shall be effective __________, 2015 and shall continue until project completion and final payment.

**Responsible Persons:** The persons responsible for administration of this Agreement shall be the Whatcom County Flood Engineer and the Bertrand Watershed Improvement District Administrator or their respective designees.

Paula J. Cooper
River and Flood Division
Whatcom County Public Works
322 N. Commercial Street, Ste. 120
Bellingham, WA 98225
Phone: (360) 676-6876
FAX: (360) 738-2468

Vern Vande Garde
Chair
Bertrand Watershed Improvement District
1796 Front Street
Lynden, WA 98264
Phone: (360) 354-1337
FAX: (360) 354-0948

**LEGAL RELATIONS**
In performing the services outlined in this Agreement, neither party is acting as the agent or employee of the other; rather, each party is acting as an independent contractor. Each party agrees to defend, indemnify, and hold harmless as to all claims for damages arising out of activities it undertakes arising out of this Agreement.

**LIABILITY**
The BWID agrees to release, defend and indemnify the County and the FCZD from any claims, damages or liabilities arising out of the acts or omissions of the BWID, its staff members and its contractors in the performance of this Agreement. Likewise, the County and the FCZD agree to defend and indemnify the BWID from any claims, damages or liabilities arising out of the acts or omissions of the County, the FCZD, its staff members and its contractors in the performance of this Agreement.

**MODIFICATIONS**
The terms of this Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

**APPLICABLE LAW**
In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.
SEVERABILITY
In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

ENTIRE AGREEMENT
This Agreement is a complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded.

EXECUTED this _______ day of __________ 2015 for BERTRAND WATERSHED IMPROVEMENT DISTRICT

APPROVED AS TO FORM:

Vern Vande Garde
Chair

Date

Date

WHATCOM COUNTY
FLOOD CONTROL ZONE DISTRICT

APPROVED AS TO FORM:

Jack Louws
Whatcom County Executive

Date

Daniel L. Gibson
Attorney for the District

Date

DEPARTMENTAL APPROVAL:

[Signature]
Jon J. Hutchings
Public Works Director

Date

7/1/15

Interlocal Agmt –BWID – Levee Repair

36
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator: Paula J Cooper</td>
<td></td>
<td>7-6-15</td>
<td></td>
<td>July 21, 2015</td>
<td>Finance, Council as the WCFCDBS</td>
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<tr>
<td>Division Head: Gary Stayka</td>
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<td>Dept. Head: Jon Hutchings</td>
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<td>7/1/15</td>
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<tr>
<td>Prosecutor: Dan Gibson</td>
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<td>07/10/15</td>
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<tr>
<td>Purchasing/Budget: Brad Bennett</td>
<td>bb</td>
<td>7-6-15</td>
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<tr>
<td>Executive: Jack Lowen</td>
<td></td>
<td>7/1/15</td>
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</table>

**RECEIVED**
JUL 14 2015
WHATCOM COUNTY COUNCIL

**TITLE OF DOCUMENT:**
Interlocal Agreement with Public Utility District No. 1 of Whatcom County for de Boer Levee Repair and Culvert Replacement Project

**ATTACHMENTS:**
Cover memorandum

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

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This agreement provides for a $10,000 contribution from the Public Utility District No. 1 of Whatcom County towards the de Boer Levee Repair and Culvert Replacement Project.

**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 Members of the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
       Gary Stoyka, Natural Resources Manager

RE: Interlocal Agreement with Public Utility District No. 1 of Whatcom County for de Boer Levee Repair and Culvert Replacement Project

DATE: July 6, 2015

Enclosed are two (2) originals of an Interlocal Agreement between the Whatcom County Flood Control District and Public Utility District No. 1 of Whatcom County for your review and signature.

Requested Action
Public Works respectfully requests that the County Executive, and the County Council, acting as the Flood Control Zone District (FCZD) Board of Supervisors, enter into an Interlocal Agreement with the Public Utility District No. 1 of Whatcom County (PUD) for the de Boer levee repair and culvert and flood gate replacement project.

Background and Purpose
Several high water events over the past winter resulted in failure of the levee crossing an unnamed tributary to the Nooksack River near Trigg Road. The levee provides flood protection to approximately 350 acres of farmland and the access road to the PUD’s water intake. Without the levee, this area would be subject to flooding at a river stage that is ten feet lower than what it takes to cause flooding when the levee is intact. A culvert with a flap gate through the levee drains floodwaters from approximately 1000 acres extending upstream to the Bertrand Creek area.

A temporary sandbag berm was installed over the existing culvert to provide immediate protection for this growing season, while a more permanent repair project was designed and permitted. The current culvert with the flood gate comprises a barrier to fish and we are required to provide fish passage as part of the project. The design includes a larger culvert and a self-regulating (SRT) tide gate, to replace the flap gate on the old culvert. The SRT gate is hinged on the side and is open most of the time, providing fish passage unless upstream water levels rise to a set elevation.

Funding Amount and Source
Funding for the project is from the FCZD fund and includes cost-shares from the PUD, Diking District #4 (DD#4) and the Bertrand Watershed Improvement District (BWID). The total project

38
cost is estimated at $200,000. The attached ILA provides for a $10,000 contribution from the PUD. The FCZD Advisory Committee recommended this project with a local cost-share of $10,000 from the PUD and $20,000 from DD#4 at their May 14th meeting. Since that time, DD#4 has requested a contribution from the BWID to offset their costs as they are also contributing towards the Bertrand Creek levee repairs.

Because this project improves the flood control system over the condition prior to the damage, the project is considered a flood hazard reduction project for purposes of the Flood Control Construction Cost-Share Program (WCC 100.05). The cost-share program specifies a 30% cost-share for repair projects, but allows for the cost-share for flood hazard reduction projects to be determined by the Board of Supervisors on a case-by-case basis.

Please contact Paula Cooper at extension 50625, if you have any questions or concerns regarding the terms of this agreement.

Encl.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

**Originating Department:** Public Works River & Flood  
**Contract or Grant Administrator:** Paula Cooper  
**Contractor’s / Agency Name:** Public Utility District # 1

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is this a New Contract? If not, is this an Amendment or Renewal to an Existing Contract?</td>
<td>☑️</td>
<td>No</td>
</tr>
<tr>
<td>Original Contract #:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Does contract require Council Approval?</td>
<td>Yes</td>
<td>☑️</td>
</tr>
<tr>
<td>If No, include WCC: (see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)</td>
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<tr>
<td>Is this a grant agreement?</td>
<td>No</td>
<td>☑️</td>
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<tr>
<td>If yes, grantor agency contract number(s):</td>
<td></td>
<td></td>
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<tr>
<td>CFDA#:</td>
<td></td>
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<tr>
<td>Is this contract grant funded?</td>
<td>No</td>
<td>☑️</td>
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<tr>
<td>If yes, Whatcom County grant contract number(s):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is this the result of a RFP or Bid process?</td>
<td>No</td>
<td>☑️</td>
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<td>If yes, RFP and Bid number(s):</td>
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<td>Contract Cost Center:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Is this agreement excluded from E-Verify?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>If no, include Attachment D Contractor Declaration form.</td>
<td></td>
<td></td>
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</tbody>
</table>

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 for Commercial off the shelf items (COTS).
- Work related subcontract less than $25,000.
- Public Works - Local Agency/Federally Funded FHWA.
- 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)

**Contract Amount:** $10,000.00  
**This Amendment Amount:** $  
**Total Amended Amount:** $

**Summary of Scope:** Cost share contribution toward DeBoer levee repair and culvert replacement project

<table>
<thead>
<tr>
<th>Term of Contract</th>
<th>Lump sum</th>
<th>Expiration Date</th>
<th>N/A</th>
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|                  | 1. Prepared by: Paula Cooper Date: 06/19/2015  
|                  | 2. Attorney signoff: Daniel L. Gibson  
|                  | 3. AS Finance reviewed: bbennett  
|                  | 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:               |
|                  | Date: 06/24/15  
|                  | Date: 07/06/2015  
|                  | Date:  
|                  | Date:  
|                  | Date:  7/10/15  
|                  | Date:  
|                  | Date:  
|                  | Date:  
|                  | Date:  
|                  | Last Edited 060414 |
INTERLOCAL AGREEMENT BETWEEN
THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY

deBoer Levee Repair and Culvert Replacement – Unnamed Tributary to the Nooksack River
Financial Support

THIS INTERLOCAL AGREEMENT (the “Agreement”) is made and entered into by the Whatcom County Flood Control Zone District (FCZD), 322 N. Commercial Street, Bellingham, WA 98225, and the Public Utility District No. 1 of Whatcom County (PUD), 1705 Trigg Road, Ferndale, WA 98248,

WHEREAS, the Nooksack River, located in Whatcom County and partially within Diking District No. 4 (DD #4), has had a history of flooding during high-water events; and

WHEREAS, it is in the interest of both the FCZD and DD #4 to implement projects that reduce flood hazards originating from the Nooksack River; and

WHEREAS, the FCZD is developing a project ("Project") to repair a levee breach on an unnamed tributary to the Nooksack River to reduce the potential for flooding within DD #4 ("Levee"); and

WHEREAS, the Levee is operated and controlled by FCZD and DD#4, and the PUD has no obligation, right or authority to operate, maintain or control the Levee; and

WHEREAS, the flooding caused by the breach of the Levee also causes downstream impacts, affecting the access road off the end of Trigg Road that leads to the PUD water intake station; and

WHEREAS, the repair of the Levee is anticipated to reduce the frequency and duration of overflows to, flooding of and damage to the PUD’s access road; and

WHEREAS, the Project includes the installation of a culvert and flood gate which is anticipated to improve fish passage and reduce the time to drain floodwaters after an event and thus is considered a flood hazard reduction project under the FCZD’s Flood Control Construction Cost Share Program in accordance with Whatcom County Code 100.05; and

WHEREAS, consistent with the program, financial participation by other parties for flood hazard reduction projects are determined on a case-by-case basis by the FCZD Board of Supervisors; and

WHEREAS, the PUD does not pay taxes into the FCZD, and is not obligated to maintain or repair the Levee but is willing to provide a contribution to the costs of the Project to support DD#4 and the FCZD in the completion of the Project; and

WHEREAS, it is in the best interest of the Parties to enter into this Interlocal Agreement,

NOW, THEREFORE, the Whatcom County Flood Control Zone District (FCZD) and the Public Utility District No. 1 of Whatcom County (PUD) agree as follows:

TERMS AND CONDITIONS

Public Utility District #1 Responsibilities: The PUD will contribute the amount of ten thousand dollars ($10,000.00) ("Payment") towards the project cost. Payment will be lump sum, payable to the

Interlocal Agmt – PUD #1 – Levee Repair
FCZD upon receipt of an invoice after construction is complete. The PUD has no obligation or authority in relation to the implementation of the Project or the Work, as those terms are defined in this Agreement.

**FCZD Responsibilities:** The FCZD agrees to undertake, design, oversee, manage, construct and complete the Project, including without limitation regulatory and SEPA compliance ("Work"). The FCZD is solely obligated for the Work. The FCZD shall expeditiously complete the Project, pursuant to applicable laws, regulations and policies, on or before December 31, 2016 ("Project Completion Date"). The Parties hereto agree that the FCZD shall be the SEPA lead agency for the Work, provided that the parties agree that Whatcom County may be the SEPA lead agency as may be determined or agree to by the FCZD. The Parties acknowledge that at this time the Project is not sufficiently designed to conduct SEPA review, but that this agreement is necessary at this time as a preliminary step to facilitate the further design of the Project.

**Term:**
This agreement shall be effective __________, 2015 and shall continue until project completion and final payment. If the FCZD does not complete the work by the Project Completion Date, this Agreement shall automatically terminate, and the PUD shall not be obligated to make the Payment.

**Responsible Persons:** The persons responsible for administration of this Agreement shall be the Whatcom County Flood Engineer and the General Manager of Public Utility District No. 1 of Whatcom County or their respective designees.

Paula J. Cooper  
River and Flood Division  
Whatcom County Public Works  
322 N. Commercial Street, Ste. 120  
Bellingham, WA 98225  
Phone: (360) 676-6876  
FAX: (360) 738-2468

Stephan Jilk  
General Manager  
Public Utility District No. 1 of Whatcom County  
1705 Trigg Road  
Ferndale, WA 98248  
Phone: (360) 384-4286  
FAX: (360) 384-4849

**LEGAL RELATIONS**
In performing the services outlined in this Agreement, neither party is acting as the agent or employee of the other; rather, each party is acting as an independent contractor. Each party agrees to defend, indemnify, and hold harmless as to all claims for damages arising out of activities it undertakes arising out of this Agreement.

**LIABILITY**
The PUD agrees to hold harmless, defend and indemnify the FCZD from any claims, damages or liabilities arising out of the acts or omissions of the PUD, its staff members and its contractors in the performance of this Agreement. Likewise, the FCZD agrees to hold harmless defend and indemnify the PUD from any claims, damages or liabilities arising out of the acts or omissions of the FCZD, its staff members and its contractors in the performance of this Agreement.

**MODIFICATIONS**
The terms of this Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
APPLICABLE LAW
In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

SEVERABILITY
In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

ENTIRE AGREEMENT
This Agreement is a complete expression of the terms hereto and any oral representation or understandings not incorporated herein are excluded.

EXECUTED this ______ day of ________, 2015 for PUBLIC UTILITY DISTRICT No. 1 of WHATCOM COUNTY

Stephan Jilk
General Manager

Jon Sitkin
Date
Legal Counsel for Whatcom PUD

WHATCOM COUNTY
FLOOD CONTROL ZONE DISTRICT

Jack Louws
Date
Whatcom County Executive, for the
FCZD Board of Supervisors

Daniel L. Gibson
Date
Attorney for the District

DEPARTMENTAL APPROVAL:

Jon J. Hutchings
Date
Public Works Director

Interlocal Agmt – PUD #1 – Levee Repair
**TITLE OF DOCUMENT:**
Flood Works Agreement with Diking District #4 for de Boer Levee Repair and Culvert Replacement Project

**ATTACHMENTS:**
Cover memorandum

**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 agreement provides for a $10,000 contribution from Diking District #4 towards the de Boer Levee Repair and Culvert Replacement Project.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

---

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: The Honorable Members of the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
       Gary Stoyka, Natural Resources Manager

RE: Flood Works Agreement with Diking District #4 of Whatcom County for de Boer Levee Repair and Culvert Replacement Project

DATE: July 6, 2015

Enclosed are two (2) originals of a Flood Works Agreement between the Whatcom County Flood Control District and Diking District #4 for your review and signature.

Requested Action
Public Works respectfully requests that the County Executive, and the County Council, acting as the Flood Control Zone District (FCZD) Board of Supervisors, enter into a Flood Works Agreement with Diking District #4 (DD#4) for the de Boer levee repair and culvert and flood gate replacement project.

Background and Purpose
Several high water events over the past winter resulted in failure of the levee crossing an unnamed tributary to the Nooksack River near Trigg Road. The levee provides flood protection to approximately 350 acres of farmland and the access road to the Public Utility District’s (PUD) water intake. Without the levee, this area would be subject to flooding at a river stage that is ten feet lower than what it takes to cause flooding when the levee is intact. A culvert with a flap gate through the levee drains floodwaters from approximately 1000 acres extending upstream to the Bertrand Creek area.

A temporary sandbag berm was installed over the existing culvert to provide immediate protection for this growing season, while a more permanent repair project was designed and permitted. The current culvert with the flood gate comprises a barrier to fish and we are required to provide fish passage as part of the project. The design includes a larger culvert and a self-regulating (SRT) tide gate, to replace the flap gate on the old culvert. The SRT gate is hinged on the side and is open most of the time, providing fish passage unless upstream water levels rise to a set elevation.

Funding Amount and Source
Funding for the project is from the FCZD fund and includes cost-shares from the PUD, DD#4 and the Bertrand Watershed Improvement District (BWID). The total project cost is estimated at $200,000. The attached Flood Works Agreement provides for a $10,000 contribution from
DD#4. The FCZD Advisory Committee recommended this project with a local cost-share of $10,000 from the PUD and $20,000 from DD#4 at their May 14th meeting. Since that time, DD#4 has requested a contribution from the BWID to offset their costs as they are also contributing towards the Bertrand Creek levee repairs.

Because this project improves the flood control system over the condition prior to the damage, the project is considered a flood hazard reduction project for purposes of the Flood Control Construction Cost-Share Program (WCC 100.05). The cost-share program specifies a 30% cost-share for repair projects, but allows for the cost-share for flood hazard reduction projects to be determined by the Board of Supervisors on a case-by-case basis.

Please contact Paula Cooper at extension 50625, if you have any questions or concerns regarding the terms of this agreement.

Encl.
## WHATCOM COUNTY CONTRACT INFORMATION SHEET

### Originating Department: Public Works River & Flood

### Contractor or Grant Administrator: Paula Cooper

### Contractor’s / Agency Name: Diking District #4

#### Is this a New Contract? Yes [x] No [□]

#### If not, is this an Amendment or Renewal to an Existing Contract? Yes [ ] No [x]

#### If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: [Include contract number]

#### Does contract require Council Approval? Yes [x] 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 [x]

#### If yes, grantor agency contract number(s): ____________

#### CFDA#:

#### Is this contract grant funded? Yes [□] No [x]

#### If yes, Whatcom County grant contract number(s):

#### Is this contract the result of a RFP or Bid process? Yes [ ] No [x]

#### If yes, RFP and Bid number(s):

#### Contract Cost Center:

#### Is this agreement excluded from E-Verify? No [x] Yes [□]

#### 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.
- [x] Interlocal Agreement (between Governments).
- [ ] Contract for Commercial off the shelf items (COTS).
- [ ] Work related subcontract less than $25,000.
- [ ] Public Works - Local Agency/Federally Funded FHWA.

### Contract Amount: (sum of original contract amount and any prior amendments):

- [ ] $ 10,000.00

### This Amendment Amount:

- [ ] $ ____________

### Total Amended Amount:

- [ ] $ ____________

### Summary of Scope: Cost share contribution toward DeBoer levee repair and culvert replacement project

### Term of Contract: Lump sum

#### Expiration Date: N/A

#### Date: 07/6/2015

#### Date: 01/06/15

#### Date: 07/7/2015

#### Date: 07/7/15

#### Date: 7/10/15

### Contract Routing:

1. Prepared by: Paula Cooper
2. Attorney signoff: R.B. ____________
3. AS Finance reviewed: bbennett ____________
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:

### Last Edited: 060414
FLOOD CONTROL WORKS AGREEMENT

Whatcom County Project Name  de Boer Culvert Replacement Project No. 715001

This agreement is entered into this ______ day of ________, 2015, between Whatcom County (Grantee), a municipal corporation of the State of Washington; Whatcom County Flood Control District (FCZD) a quasi-municipal corporation of the State of Washington; and Diking District #4. (Grantor) a duly organized district and Local Sponsor of certain property located on the hereinafter described body of water, for the purpose of providing flood control/river improvement work on an unnamed tributary to the Nooksack River, in Whatcom County, Washington, more specifically denoted by Whatcom County TAX PARCEL NUMBER 390209213321 situated in Whatcom County.

Whatcom County, the FCZD, and the Local Sponsor agree as follows:

DEFINITIONS

D.1. The term "Project" shall mean construction, operation and/or maintenance of flood protection works in accordance with Whatcom County standards. The project is located on an unnamed tributary to the Nooksack River.

The work generally consists of repair to: a levee crossing the tributary approximately 500 feet upstream of the Nooksack River, and replacement of the existing 60" concrete culvert and flap gate with a 95" x 67" corrugated metal pipe arch with a side swing self-regulating tide gate with a muted tide regulator. The work also includes the installation of a temporary sandbag berm over the existing culvert to provide flood protection over the 2015 growing season prior to the permanent repair.

D.2. The term "Total Project Cost" shall mean all the costs incurred by Whatcom County directly related to the execution of the project. Such costs shall include, but are not limited to: design, permitting, construction costs, supervision and inspection costs; accounting and administrative cost, cost of contract dispute settlements or awards; but shall not include any costs of operation and maintenance; or the costs of acquiring lands, easements, right-of-way, or relocations.

OBLIGATIONS OF WHATCOM COUNTY, WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT, AND THE LOCAL SPONSOR

O.1. Whatcom County, subject to receiving funds from the Whatcom County Flood Control Zone District and funds provided by the Local Sponsor, shall expeditiously complete the Project, pursuant to laws, regulations and policies. The Local Sponsor shall be afforded the opportunity to review and comment on the plans and specifications. Whatcom County will, in good faith, consider the
comments of the Local Sponsor but modifications and performance of all work on the project shall be exclusively within the control of Whatcom County.

O.2. The Local Sponsor shall provide all lands, easements and right-of-way determined by Whatcom County to be necessary for execution, operation and maintenance of the Project. If a Flood Easement is not recorded on the property, the Local Sponsor shall execute a Flood Control Works Easement.

O.3. The Local Sponsor shall contribute in cash, a contribution toward the construction of the project in an amount equal to $10,000.

O.4. The Local Sponsor shall hold and save Whatcom County free from damages or claims arising from the design, construction, and maintenance of the Project, except for damages in actions brought by third parties due to negligence of Whatcom County or its contractors. In case of such exception, Local Sponsor shall immediately, upon receipt of notice, notify the County of the existence of any such suit, or of its intent to avail itself of the defense that the County or its contractors were negligent.

**METHOD OF PAYMENT**

P.1. The Local Sponsor shall provide, before and/or during the period of project activity, cash payments until paid in full, required to satisfy the above Obligations of this agreement. The total project cost is currently estimated to be $200,000 and the Local Sponsor’s share of the total project cost at this time is currently estimated to be $10,000.

The estimates set forth in this paragraph are based on Whatcom County’s best judgement. Project cost estimates are subject to adjustment based on costs actually incurred and are not to be construed as the total financial obligation of Whatcom County, the FCZD, or the Local Sponsor. In the event the total project costs are expected to vary from the estimate, Whatcom County will notify the FCZD and the Local Sponsor as the actual costs become known but before incurred.

P.2. Upon completion of the construction phase of the Project, Whatcom County shall compute the total project costs and tender to the FCZD and the Local Sponsor a final accounting of the costs and the balance owing of the Local Sponsor’s share.

**OPERATION AND MAINTENANCE**

OM.1. After the Project is completed, the Local Sponsor will be provided with written notice of completion. Following completion the Local Sponsor shall be obligated to maintain the completed Project, at no cost to Whatcom County or the FCZD in accordance with Local, State and Federal Standards.

OM.2. The Local Sponsor hereby gives Whatcom County, the FCZD, or its agents of either the right to enter, at reasonable times and in a reasonable manner, upon land which the Local Sponsor owns or controls for access to the Project for purpose of inspection and if necessary for the purpose of completing, operating, and/or maintaining the project. This right of entry shall be permanent and shall attach to the land and will run with the land upon sale or other transfer. The Local Sponsor upon reasonable notice to the County and the FCZD may alter the exact route of access so long as
the alteration does not impair their ability to get needed equipment to the site.

OM.3. If such an inspection shows that the Local Sponsor is failing to maintain the Project in accordance with the assurances aforementioned and has persisted in such failure after a reasonable notice in writing, Whatcom County and the FCZD may not participate to its normal extent in repairing structural damage to an inadequately maintained project.

OM.4. Further, Whatcom County or the FCZD may elect to undertake maintenance and operation responsibilities abandoned by the Local Sponsor and charge the Local Sponsor for the cost of these services. Billing and collection for Operation and Maintenance will follow the general provisions in Section P.2.1.

NOTICES

N.1. All notices, requests, demands and other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if addressed to the following:

If to the Local Sponsor:

Local Sponsor: Diking District #4
Commissioner: Jay Kaemingk, Chair
Address: 855 Timberlake Way
City, State, Zip: Bellingham, WA 98226

If to Whatcom County Public Works:

River and Flood Division
322 N. Commercial Street, Suite 120
Bellingham, WA  98225
In Witness Whereof, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Whatcom County Executive also acting on behalf of the FCZD Board of Supervisors.

Local Sponsor

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
Acknowledged and Accepted By:

By: ____________________________
       Jay Kaemingk, Chair

By: ____________________________

On this _______ day of ________, 20____ before me personally appeared
       Jay Kaemingk and Dick Bedington to me personally
known to be the person(s) individually or jointly described in and who executed the above instrument and
who acknowledged to me the act of signing thereof.

NOTARY PUBLIC, in and for the State of Washington,
residing at ________________, My Commission Expires ____________

WHATCOM COUNTY

By: ____________________________
       Jack Louws
       County Executive, also acting on behalf of the Whatcom County Flood Control Zone District Board
of Supervisors

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

NOTARY PUBLIC, in and for the State of Washington,
residing at ________________, My Commission Expires ____________

Approved as to Form:

Daniel Gibson, Chief Civil Deputy Prosecutor
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITeL OF DOCUMENT:

Construction Contract Award – de Boer Culvert Replacement
Project No. 715001; Bid No. 15-53

ATTACHMENTS:

1. Bid Award Memo
2. Approval for Contract Award
3. Bid Tabulation
4. Low Bid Proposal

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

Should Clerk schedule a hearing? ( ) Yes ( X ) NO
Requested Date: 

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Award of a construction contract to Carman’s Construction LLC for the de Boer Culvert Replacement in the amount of $88,858.57 including all taxes.

COMMITTEE ACTION: 

BOARD OF SUPERVISORS ACTION: 

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: The Honorable Members of the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Cooper, P.E., River and Flood Manager
       Gary Stoyka, Natural Resources Manager

RE: de Boer Culvert Replacement

DATE: July 8th 2015

Attached for your review and signature is a construction contract award package for the de Boer Culvert Replacement Project. The package includes the Bid Award, Bid Tabulation, and Low Bid Proposal.

Requested Action
Public Works respectfully requests that the County Council, acting as the Flood Control Zone District Board of Supervisors (FCZD), authorize the County Executive to award the bid and execute a contract for the de Boer Culvert Replacement to the low bidder, Carman's Construction LLC, in the amount of $88,858.57 including all taxes.

Nine (9) bid proposals for the project were received at the bid opening on Tuesday July 7, 2015.

Background and Purpose
Several high water events over the past winter resulted in failure of the levee crossing an unnamed tributary to the Nooksack River near Trigg Road. The levee provides flood protection to approximately 350 acres of farmland and the access road to the Public Utility District's water intake. Without the levee, this area would be subject to flooding at a river stage that is ten feet lower than what it takes to cause flooding when the levee is intact. A culvert with a flap gate though the levee drains floodwaters from approximately 1000 acres extending upstream to the Bertrand Creek area.

A temporary sandbag berm has been installed over the existing culvert to provide immediate protection for this growing season. This contract provides for removal of the sandbag berm and installation of a new culvert and construction of a levee over the culvert. The culvert will be fitted with a side mounted flood gate (supplied by Nehalem Marine Manufacturing).

Funding Amount and Source
This contract is in the amount of $88,858.57. Funding for the project is from the FCZD fund and includes contributions of $10,000 from the PUD, Diking District #4 (DD#4) and the Bertrand Creek Watershed Improvement District (BCWID). The total project cost is estimated at $200,000; the culvert and flood gate are included in the overall budget but have been purchased outside of this bid due to the time required to manufacture the products and the requirements to construct within the fish window.
Because this project improves the flood control system over the condition prior to the damage, the project considered a flood hazard reduction project for purposes of the Flood Control Construction Cost-Share Program (WCC 100.05). The cost-share program specifies a 30% cost-share for repair projects, but allows for the cost-share for flood hazard reduction projects to be determined by the Board of Supervisors on a case-by-case basis. In this instance the total cost-share contributions will be 15% of the total project cost if the entire $200,000 budget is expended.

Please contact Paula Cooper at extension 50625, if you have any questions or concerns regarding the terms of this agreement.

In accordance with W.C.C. 3.08.090, I concur with this recommendation:

[Signature]
Sara Winger, Purchasing Coordinator

[Signature]
Date

07/10/2015

Encl.
APPROVAL FOR CONTRACT AWARD

Approval is hereby granted to award the Contract as follows:

PROJECT: de Boer Culvert Replacement

NO. 715001

BID NO. 15-53

TO: CARMAN'S CONSTRUCTION LLC

In the amount of their bid proposal of $88,858.57 including all taxes.

Jack Louws  
Whatcom County Executive  
Acting on behalf of the Flood Control Zone  
Board of Supervisors

Daniel L. Gibson  
Chief Deputy Prosecutor

Date

July 15, 2015
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**BOLD DENOTES CORRECTED BID AMOUNTS**

Iverson Earthworks and Moceri Construction total bid amounts were corrected due to rounding issues.

Carman's Construction, Bianchi Construction and Colacurcio Brothers bid item extensions and total bid amounts were corrected.
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</table>
BID PROPOSAL FORM

de BOER CULVERT REPLACEMENT

PROJECT NO. 715001

BID NO. 15-53

DATE: July 7, 2015

TO: Whatcom County Flood Control Zone District Board of Supervisors
  Whatcom County Courthouse
  311 Grand Avenue
  Bellingham, Washington 98225

Gentlepersons:

This certifies that the Undersigned: has examined the location of the project site and the conditions of work; and has carefully read and thoroughly understands the contract documents entitled: "de Boer Culvert Replacement, Project No. 715001" Whatcom County, Washington, including the "Bid Procedures and Conditions," "Specifications and Conditions," "Contract Forms," "Construction Plans," and "Appendices," governing the work embraced in this project, and the method by which payment will be made for said work. The Undersigned hereby proposes to undertake and complete the work embraced in this project in accordance with said contract documents, and agrees to accept as payment for said work, the schedule of lump sum, force account and unit prices as set forth in the "Bid" below.

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

The Undersigned certifies that it is not currently disqualified from bidding on any public works contract under RCW 39.06.010 or RCW 39.12.065(3).
<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>UNIT MEASURE</th>
<th>ITEM DESCRIPTION</th>
<th>APPROX. QUANTITY</th>
<th>UNIT PRICE IN FIGURES</th>
<th>EXTENDED PRICE IN FIGURES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LUMP SUM</td>
<td>MOBILIZATION</td>
<td>L.S.</td>
<td>L.S.</td>
<td>$6,846.00</td>
</tr>
<tr>
<td>2</td>
<td>LUMP SUM</td>
<td>SPILL PREVENTION, CONTROL AND COUNTERMEASURES PLAN</td>
<td>L.S.</td>
<td>L.S.</td>
<td>$262.00</td>
</tr>
<tr>
<td>3</td>
<td>LUMP SUM</td>
<td>REMOVAL OF STRUCTURES AND OBSTRUCTIONS</td>
<td>L.S.</td>
<td>L.S.</td>
<td>$1,260.00</td>
</tr>
<tr>
<td>4</td>
<td>CUBIC YARD</td>
<td>UNSUITABLE FOUNDATION EXCAVATION</td>
<td>150</td>
<td>$8.40 per CY</td>
<td>$1,260.00</td>
</tr>
<tr>
<td>5</td>
<td>CUBIC YARD</td>
<td>EMBANKMENT COMPACTION (For levee construction beyond the structural fill over the culvert)</td>
<td>650</td>
<td>$4.85 per CY</td>
<td>$3,152.50</td>
</tr>
<tr>
<td>6</td>
<td>TON</td>
<td>SELECT BORROW (For levee structural fill over the culvert)</td>
<td>400</td>
<td>$74.60 per TON</td>
<td>$9,860.00</td>
</tr>
<tr>
<td>7</td>
<td>M(1000) GALLON</td>
<td>WATERING</td>
<td>50</td>
<td>$0.058 per M(1000) Gal</td>
<td>$2,900.00</td>
</tr>
<tr>
<td>8</td>
<td>CUBIC YARD</td>
<td>STRUCTURE EXCAVATION CLASS B</td>
<td>550</td>
<td>$5.73 per CY</td>
<td>$3,151.50</td>
</tr>
<tr>
<td>9</td>
<td>LUMP SUM</td>
<td>SHORING OR EXTRA EXCAVATION CLASS B</td>
<td>L.S.</td>
<td>L.S.</td>
<td>$12.90</td>
</tr>
<tr>
<td>10</td>
<td>TON</td>
<td>4-INCH MINUS CRUSHED SURFACING (Pipe Foundation Material)</td>
<td>175</td>
<td>$39.50 per TON</td>
<td>$6,912.50</td>
</tr>
<tr>
<td>11</td>
<td>TON</td>
<td>CRUSHED SURFACING TOP COURSE (Pipe Zone Backfill)</td>
<td>400</td>
<td>$31.51 per TON</td>
<td>$12,608.00</td>
</tr>
<tr>
<td>12</td>
<td>LUMP SUM</td>
<td>CORRUGATED METAL PIPE (CMP) (Installation only)</td>
<td>L.S.</td>
<td>L.S.</td>
<td>$7,087.00</td>
</tr>
<tr>
<td>13</td>
<td>DOLLAR</td>
<td>EROSION/WATER POLLUTION CONTROL (Force Account)</td>
<td>EST.</td>
<td>$1.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>14</td>
<td>TON</td>
<td>LIGHT LOOSE RIPRAP</td>
<td>200</td>
<td>$45.15 per TON</td>
<td>$9,030.00</td>
</tr>
<tr>
<td>15</td>
<td>LUMP SUM</td>
<td>STREAM DIVERSION</td>
<td>L.S.</td>
<td>L.S.</td>
<td>$472.00</td>
</tr>
<tr>
<td>16</td>
<td>DOLLAR</td>
<td>MISC. FORCE ACCOUNT WORK</td>
<td>EST.</td>
<td>$1.00</td>
<td>$15,000.00</td>
</tr>
</tbody>
</table>

**SUBTOTAL BID AMOUNT (Bid Items 1-16)**

$84,799.40

**STATE SALES TAX @ 8.5%**

$7,207.52

**TOTAL BID AMOUNT (Bid Items 1-16 plus tax)**

$92,006.92

*Contracted Totals by Whatcom County Flood Control Zone District, CFS/7/8/15*
NON-COLLUSION DECLARATION

de BOER CULVERT REPLACEMENT

PROJECT NO. 715001

BID NO. 15-53

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

1. That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.
2. That by signing the signature page of this proposal, I am deemed to have signed and have agreed to the provisions of this declaration.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

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

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

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

Firm Name:  

CARMAN'S CONSTRUCTION LLC

Address:  

20 W. Trexell Rd.

OAK HARBOR, WA 98277

Telephone:  

360-679-5010

Contractor's WA Registration Number:  

CARMAN922NF

Contractor's WA UBI Number:  

607831760

Contractor's WA Employment Security Department Number:  

388280001

Contractor's WA Excise Tax Registration Number:  

262675436

The Firm submitting this proposal is a:  

Sole Proprietorship  

X Partnership  

Corporation

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

KEVIN CARMAN / MEMBER

BOB CARMAN / MEMBER

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

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

**Bid Proposal Deposit Options:**

- [ ] CASHIER'S CHECK □ DOLLARS ($_) PAYABLE TO WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
- [ ] CERTIFIED CHECK □ DOLLARS ($_) PAYABLE TO WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT
- [ ] PROPOSAL BOND IN THE AMOUNT OF 5% OF THE BID.

Receipt is hereby acknowledged by addendum(s) No.(s) _____, _____, & _____

**SIGNATURE OF AUTHORIZED OFFICIAL(S)**

(PROPOSAL MUST BE SIGNED) [Signature] (Seal)

FIRM NAME: [Carman's Construction LLC]

STATE OF WASHINGTON  
COUNTY OF Skagit  
On this 2nd day of July, 2015, before me personally appeared [Name] to me personally known to be the person described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

[Signature]
NOTARY PUBLIC, in and for the State of Washington, residing at: [Anacortes] 
My Commission Expires: Jan. 20, 2019

This proposal form is not transferable and any alteration of the firm's name entered hereon without prior permission from Whatcom County Flood Control Zone District will be cause for considering the proposal irregular and for subsequent rejection of the bid.
BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, Carman's Construction, LLC
20 West Troxell Rd.
of Oak Harbor, WA 98277 as principal, and the AMCO Insurance Company
a corporation duly organized under the laws of the State of Iowa
and having its principal place of business at 1100 Locust St., Dept 2006, Des Moines, IA 50391-2006
in the State of IOWA, as Surety, are held and firmly bound unto Whatcom County
Flood Control Zone District a quasi-municipal Corporation in the State of Washington, in
the full and penal sum of five percent (5%) of the total bid amount appearing on the bid
proposal of said principal for the work hereinafter described, for the payment of which,
well and truly to be made, we bind our heirs, executors, administrators and assigns, and
successors and assigns, jointly and severally, firmly by these presents.

The condition of this bond is such that, whereas, the principal herein is herewith
submitting his or its bid proposal for "de Boer Culvert Replacement, Project No.
715001, Bid No. 15-63", bid proposal, by reference thereto, being hereby made a part
hereof.

NOW, THEREFORE, if the said bid proposal submitted by the said PRINCIPAL be
accepted, and the contract be awarded to said PRINCIPAL, and if said PRINCIPAL shall
duly make and enter into and execute said contract and shall furnish the performance
bond as required by the bidding and contract documents within a period of ten (10) days
from and after said award, exclusive of the day of such award, then its obligation to pay
the above-mentioned penal sum as liquidated damages shall be null and void, otherwise
it shall remain and be in full force and effect.

7th July
SIGNED AND SEALED this ______ day of ______________, 2015.
Carman's Construction, LLC

Principal
By ____________________________ (Seal)

AMCO Insurance Company

Surety
By ____________________________
Attorney-In-Fact Jeffrey L. Stewart

The Attorney-in-fact, who executes this bond on behalf of the surety company, must
attach a copy of his power-of attorney as evidence of his authority.
Power of Attorney

KNOW ALL MEN BY THESE PRESENTS THAT:

Nationwide Mutual Insurance Company, an Ohio corporation
Farmland Mutual Insurance Company, an Iowa corporation
Nationwide Agribusiness Insurance Company, an Iowa corporation
AMCO Insurance Company, an Iowa corporation
Allied Property and Casualty Insurance Company, an Iowa corporation
Depositors Insurance Company, an Iowa corporation

hereinafter referred to severally as the "Company" and collectively as the "Companies," each does hereby make, constitute and appoint:

FRANK S. MCALLISTER
LYNETTE C. GRANDY
JEFFREY L. STEWART

KIRKLAND WA

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf any and all bonds and undertakings, and other obligatory instruments of similar nature, in penalties not exceeding the sum of

TWO MILLION AND NO/100 DOLLARS $2,000,000.00

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:

"RESOLVED, that the president, or any vice president be, and each hereby is, authorized and empowered to appoint attorneys-in-fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature that the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company.

"RESOLVED FURTHER, that such attorneys-in-fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of instruments. Any vice president, any assistant secretary or any assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts, or other papers in connection with the operation of the business of the company in addition to the chairman of the board, the chief executive officer, president, treasurer or secretary; provided, however, the signature of any of them may be printed engraved, or stamped on any approved document, contract, instrument, or other papers of the Company.

IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 13th day of February, 2014.

Terrance Williams, President and Chief Operating Officer of Nationwide Agribusiness Insurance Company and Farmland Mutual Insurance Company, and Vice President of Nationwide Mutual Insurance Company, AMCO Insurance Company, Allied Property and Casualty Insurance Company, and Depositors Insurance Company

ACKNOWLEDGMENT

STATE OF IOWA, COUNTY OF POLK: ss
On this 13th day of February, 2014, before me came the above-named officer for the Companies aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Companies aforesaid, that the seals affixed hereto are the corporate seals of said Companies, and the said corporate seals and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Companies.

Sandy Altice
Notary Seal – Iowa
Commission Expires March 24, 2017

CERTIFICATE

I, Robert W. Homer III, Secretary of the Companies, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Terrance Williams was on the date of the execution of the foregoing power of attorney the duly elected officer of the Companies, and the corporate seals and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Secretary, and affixed the corporate seals of said Companies this 7th day of July, 2015.

Secretary

This Power of Attorney Expires 04/24/18

BDJ 1(03-14) 00

06638
**TITLE OF DOCUMENT:**
Joint Funding Agreement with US Geological Study for Nooksack River Sediment and Geomorphic Analyses

**ATTACHMENTS:**
Cover memorandum

**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 Joint Funding Agreement provides cost-share funding towards a study to evaluate the Nooksack River’s geomorphic response to sediment loads to provide insight on managing flood risk and drainage issues. The results of the study will be used in updating the Comprehensive Flood Hazard Management Plan.

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**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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**Related County Contract #:**

**Related File Numbers:**

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

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

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Cooper, P.E., River and Flood Manager
       Gary Stoyka, Natural Resources Program Manager

RE: Joint Funding Agreement with United States Geological Survey
    Nooksack River Sediment and Geomorphic Analysis

DATE: July 6, 2015

Enclosed are two (2) originals of a Joint Funding Agreement between the Whatcom County Flood Control Zone District (FCZD) and the United States Geological Survey (USGS) for your review and signature.

- **Background and Purpose**
  The Nooksack River carries the second largest sediment load of all the rivers draining into Puget Sound. The total annual sediment load in the river is likely between 1-1.8 million tons per year. Large volumes of sediment transported down the Nooksack River contribute to dynamic channel movements, localized aggradation, and compromised flow-conveyance along the river corridor. Channel changes can influence flood risk in the winter months and drainage later in the spring when agricultural operation start seasonal planting.

  The overall objective of this study is to analyze the hydrology and geomorphology of the Nooksack River system to offer insight into how resource managers can manage flood risk and drainage issues under current conditions, and under conditions expected under projected climate change in the coming decades. This work will provide some of the technical information needed to update the Lower Nooksack River Comprehensive Flood Hazard Management Plan; the update to the plan is scheduled to begin in the latter half of 2016, once the System-wide Improvement Framework is complete.

- **Funding Amount and Source**
  The proposed Joint Funding Agreement is for $442,500 over three years, of which $177,000 will be funded by the USGS, and $265,500 will be from the FCZD fund. The 2015 FCZD budget has adequate authority for this year’s cost-share.

  Please contact Paula Cooper at extension 50625 if you have any questions or concerns regarding the terms of this agreement,

Encl.
### WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Public Works River & Flood  
**Contract or Grant Administrator:** Paula Cooper  
**Contractor’s / Agency Name:** US Geological Survey

#### Is this a New Contract?  
Yes [x] No [ ]  
If not, is this an Amendment or Renewal to an Existing Contract?  
Yes [ ] No [x]

#### Does contract require Council Approval?  
Yes [x] 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 [x]

If yes, grantor agency contract number(s):

#### Is this contract grant funded?  
Yes [ ] No [x]

If yes, 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):

#### Is this agreement excluded from E-Verify?  
No [x] Yes [ ]

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.  
- [X] Interlocal Agreement (between Governments).  
- [ ] Contract for Commercial off the shelf items (COTS).  
- [ ] Work related subcontract less than $25,000.  
- [ ] Public Works - Local Agency/Federally Funded FHWA.

#### Contract Amount:(sum of original contract amount and any prior amendments):  
$442,500 total; $265,500 FCZD share

This Amendment Amount:  
$

Total Amended Amount:  
$

#### Summary of Scope:  
Joint Funding Agreement for sediment and geomorphic analysis for the Nooksack River

#### Term of Contract:  
Lump sum  
Expiration Date: December 31, 2017

#### Contract Routing:  
1. Prepared by: Paula Cooper  
3. AS Finance reviewed: bbennett  
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:

Date: 07/6/2015  
Date: 7/8/15  
Date: 07/07/2015  
Date: 6/29/15  
Date: 7/10/15

Last Edited 060414
THIS AGREEMENT is entered into as of the 1st day of JULY 2015, by the U.S. GEOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF THE INTERIOR, party of the first part, and Whatcom County, party of the second part.

1. The parties hereto agree that subject to availability of appropriations and in accordance with their respective authorities there shall be maintained in cooperation a fixed-price agreement for the sediment transport and geomorphology of the Nooksack River which is considered a part of this agreement, herein called the program. The USGS legal authority is 43 USC 36C; 43 USC 50; and 43 USC 50b.

2. The following amounts shall be contributed to cover all of the cost of the necessary field and analytical work directly related to this program. 2(b) includes In-Kind Services in the amount of $ N/A.

   (a) $177,000
   July 1, 2015 to December 31, 2017
   by the party of the first part during the period

   (b) $265,500
   July 1, 2015 to December 31, 2017
   by the party of the second part during the period

   (c) Additional or reduced amounts by each party during the above period or succeeding periods as may be determined by mutual agreement and set forth in an exchange of letters between the parties.

   (d) The performance period may be changed by mutual agreement and set forth in an exchange of letters between the parties.

3. The costs of this program may be paid by either party in conformity with the laws and regulations respectively governing each party.

4. The field and analytical work pertaining to this program shall be under the direction of or subject to periodic review by an authorized representative of the party of the first part.

5. The areas to be included in the program shall be determined by mutual agreement between the parties hereto or their authorized representatives. The methods employed in the field and office shall be those adopted by the party of the first part to insure the required standards of accuracy subject to modification by mutual agreement.

6. During the course of this program, all field and analytical work of either party pertaining to this program shall be open to the inspection of the other party, and if the work is not being carried on in a mutually satisfactory manner, either party may terminate this agreement upon 60 days written notice to the other party.

7. The original records resulting from this program will be deposited in the office of origin of those records. Upon request, copies of the original records will be provided to the office of the other party.

8. The maps, records, or reports resulting from this program shall be made available to the public as promptly as possible. The maps, records, or reports normally will be published by the party of the first part. However, the party of the second part reserves the right to publish the results of this program and, if already published by the party of the first part shall, upon request, be furnished by the party of the first part, at costs, impressions suitable for purposes of reproduction similar to that for which the original copy was prepared. The maps, records, or reports published by either party shall contain a statement of the cooperative relations between the parties.
9. USGS will issue billings utilizing Department of the Interior Bill for Collection (form DI-1040). Billing documents are to be rendered **QUARTERLY**. Payments of bills are due within 60 days after the billing date. If not paid by the due date, interest will be charged at the current Treasury rate for each 30 day period, or portion thereof, that the payment is delayed beyond the due date. (31 USC 3717; Comptroller General File B-212222, August 23, 1983).

**U.S. Geological Survey**  
**United States**  
**Department of the Interior**

**USGS Point of Contact**

Name: Christopher Konrad  
Address: USGS WAWSC  
934 Broadway, Suite 300  
Tacoma, WA 98402  
Telephone: 253-552-1634  
Email: cpkonrad@usgs.gov

**Customer Point of Contact**

Name: Paula Cooper  
Address: 322 N. Commercial St  
Suite 120  
Bellingham, Washington 98225  
Telephone:  
Email:

**Signatures**

By **Cynthia Barton**, Date 6-24-15  
Name: Cynthia Barton, Ph.D., L.G., L.H.G.  
Title: Center Director, USGS Washington Water Science Center

By __________________________ Date________  
Name:  
Title:

By __________________________ Date________  
Name:  
Title:

By __________________________ Date________  
Name:  
Title:
WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT:
Recommended for Approval:

[Signature] 7/9/15
Jon Hutchings, Public Works Director  Date

Approved as to form only:

[Signature] 7/10/15
Daniel Gibson, Chief Civil Deputy Prosecutor  Date

Approved:
Accepted for Whatcom County Flood Control Zone District

By: ______________________________________
Jack Louws, Whatcom County Executive,  Date
acting for the Whatcom County
Flood Control Zone District Board of Supervisors

STATE OF WASHINGTON )
) ss
COUNTY OF WHATCOM )

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

_____________________________________
NOTARY PUBLIC in and for the State of
Washington, residing at ________________.
My commission expires
____________________.
Geomorphie analysis of the fluvial response to sediment loads in the Nooksack River System, Washington

Summary

Problem — The Nooksack River transports large volumes of sediment sourced from Mount Baker and the North Cascade Range (Czuba and others, 2011), which contribute to dynamic channel movements, localized aggradation, and compromised flow-conveyance along the river corridor. Channel responses to sediment inputs, hydrologic change, and sea-level rise may increase flood risk and drainage problems and impact agricultural, other commercial and residential uses of floodplains along the river. Such changes also affect riverine and coastal habitats used by Chinook salmon and steelhead, which are listed under the Endangered Species Act and other fin fish, shellfish, and wildlife valued by people. Management actions to reduce sediment impacts and associated influences on flood risk and wildlife (salmon) populations need to be based on the best available information about how the river is changing and is projected to change in the future.

Objectives — The overall objective of this study is to analyze the hydrology and geomorphology of the Nooksack River system to offer insight into how resource managers can manage flood risk and drainage issues under current conditions, and under conditions expected under projected climate change in the coming decades. Specifically, we will estimate the magnitude of sediment loads transported down the Nooksack River system; determine the proportion of total load that is bed-material load; and survey the bathymetry and topography within the mainstem Nooksack River to document localized sediment storage and characterize whether storage is transient.

Relevance and Benefits — This study addresses issues related to flooding in a populated area of the U.S. providing important information to decision makers to plan for hazards mitigation, protection and restoration of threatened and endangered species (e.g., salmonids) and climate adaptation. The study is consistent with the USGS strategic science directions “A National hazards, risk, and resilience assessment program” and “Climate variability and change” identified in the 2007-17 science strategy of the USGS (U.S. Geological Survey, 2007).

Approach — Analysis of the geomorphology of the Nooksack River system will expand on previous and ongoing sediment research in the Nooksack basin; collaboration with the Nooksack Indian Tribe, Lummi Nation, and City of Bellingham; field surveys, aerial imagery analysis, comparative analysis with similar fluvial systems elsewhere, and the application of geomorphic principles of sediment transport in Pacific Northwest mountainous river networks.
Geomorphic analysis of the fluvial response from heavy sediment loads in the Nooksack River System, Washington

Draft proposal prepared by the U.S. Geological Survey for Whatcom County Public Works Department, River and Flood Division

June 24, 2015

**Background** — The Nooksack River, in northwest Washington, drains Mount Baker and the North Cascade Range and drains into Puget Sound at Bellingham Bay (Fig. 1). The Nooksack River also carries some of the largest sediment loads of all rivers draining into Puget Sound (Czuba and others, 2011). The total annual sediment load in the river is likely between 1-1.8 million tons per year, and this sediment load is sourced both from Mount Baker and the surrounding North Cascade Range. The relative proportion of sediment from Mount Baker, an active, glaciated volcano, versus the Cascade Range is unknown, but most of the mountainous terrain in the upper watershed is prone to landslides and copious sediment production. Flooding and pronounced sediment releases to the fluvial network occur most often during large winter rainfall events known as atmospheric rivers or “pineapple-express” storms (Neiman and others, 2011). But large landslides can occur at any time during the year. Recently (2013 and 2014), a large debris flow emanating from the Deming Glacier terminus (Tucker et al. 2014) and landslides along the Clay Banks near the town of Deming moved large amounts of sediment into the river, causing safety concerns downstream and renewed interest the research proposed here.

After sediment is deposited into the fluvial network, active channel migration and localized aggradation can lead to issues of flooding in the winter or drainage problems from agricultural areas during the growing season. The lower Nooksack River flows through a broad glacial plain deposited by ice as recently as the late Pleistocene (see Armstrong and others, 1965; Kovanen and Easterbrook, 2001). The river is geologically young and has been subject to dramatic changes in course during the Holocene. At times in the past 10,000 years the Nooksack River has flow north to the Fraser River or into Lummi Bay or Bellingham Bay (Collins and Sheikh, 2004). Gravel removal by dredging or gravel-bar scalping was common during the 20th century (Kerr Wood Leidal, 2008), but changes in the market value of river gravels and listing of Puget Sound Chinook salmon and steelhead under the Endangered Species Act has increased difficulty for river managers to obtain permits (Czuba and others, 2012).

**Problem** — Large volumes of sediment sourced from Mount Baker and the North Cascade Range and transported down the Nooksack River, Washington (Czuba and others, 2011), contribute to dynamic channel movements, localized aggradation, and compromised flow-conveyance along the river corridor. Channel changes can influence flood risk in the winter months and drainage later in the spring when agricultural operations start seasonal plantings. Recent projections of climate change effects to sediment loads indicate strong likelihood of increases across Northern Cascade watersheds as greater precipitation falls as rain than snow and drives higher runoff (Lee et al. In Press). As a result, river managers need information about the magnitude of the changes and whether they are cyclic or trending. In addition, recovery of Chinook salmon and steelhead listed under the Endangered Species Act may be affected by channel changes and management actions intended to reduce flood risk or drainage issues.
Objectives and Scope — The overall objective of this study is to analyze the hydrology and geomorphology of the Nooksack River system to offer insight into how resource managers can manage flood risk and drainage issues under current conditions, and under conditions expected under projected climate change in the coming decades. Specifically, the study will estimate the flux of sediment transported down the Nooksack River system; survey the mainstem Nooksack River channel and corridor to document sediment deposition; monitor river stage and channel downstream of Ferndale to understand how channel dynamics at the event or seasonal scale influence flooding; and analyze the hydrology and geomorphology of the Nooksack River system to assess the magnitude/rate of aggradation, how it affects flooding and drainage, and factors contributing to aggradation.

Specific objectives of the study are to:

1. Develop relations between turbidity and suspended sediment transport in the Nooksack River network. Characterize suspended sediment and bed material particle-size distributions.
2. Conduct bathymetric and topographic surveys and change analyses along the Nooksack River from around Deming to the mouth
3. Assess local hydraulics and channel dynamics of the lower Nooksack River (downstream of Ferndale) during winter to characterize cyclical changes versus trends and factors influencing stage and groundwater levels during wet periods
4. Analyze the hydrology and geomorphology of the Nooksack River to characterize the dominant factors that regulating river bed and delta elevation over time.

Relevance and Benefits — This study addresses issues related to flooding in a populated area that also provides important information explaining habitat for endangered salmonids. Resource
values and flood risks from the Nooksack River are important to both the Nooksack Indian Tribe and Lummi Nation. The study is consistent with the USGS strategic science directions “A National hazards, risk, and resilience assessment program” and “Climate variability and change” identified in the 2007-17 science strategy of the USGS (U.S. Geological Survey, 2007). The investigation will advance an integrated analysis of sediment transport from the mountain headwaters of the Nooksack River to its estuary in Bellingham Bay. The results will establish a foundation of observed channel change that can help motivate and guide future/concurrent research by USGS and collaborators on sediment sources, global change impacts, and channel responses.

**Approach** — The investigation will integrate existing information on sediment transport and river channel morphology (e.g., Kerr Wood Liedal 2008), new information collected and generated during the investigation, and understanding of geomorphic processes in rivers of the Pacific Northwest (Czuba and others 2012). Details for the investigation approach are provided for each task.

**Task 1. Develop relations between suspended sediment concentration and turbidity at five stations in the Nooksack River network.** Suspended-sediment loads are calculated from the product of suspended-sediment concentration and streamflow summed over time. Continuous values of turbidity can be used as surrogate measure for suspended sediment concentration over time. A relation between suspended sediment concentration and turbidity requires sampling and analysis of suspended-sediment concentrations over a range of streamflows when sediment is in transport. This task will leverage existing turbidity, SSC data, and streamflow data supplemented where necessary with new data collection to estimate sediment loads at the Nooksack River at Cedarville, the Nooksack River at Ferndale, and in North, Middle, and South Forks of the Nooksack River.

**Task 1a.** A turbidity sensor will be installed at the Nooksack River at Ferndale gage (12213100) to collect data for water years 2016 and 2017. Five to seven suspended-sediment concentration (SSC) samples will be collected during this deployment and combined with turbidity and SSC data collected by USGS in water year 2012 to build a SSC-turbidity relation.

**Task 1b.** The City of Bellingham is collecting continuous turbidity data in the Middle Fork Nooksack River at the Deming gage (12208000). In conjunction with the operation of this turbidity sensor, the USGS will collect from seven to ten SSC samples per year and work with the City of Bellingham to develop a SSC-turbidity relation.

**Task 1c.** The Nooksack Indian Tribe (NIT) is collecting continuous turbidity and SSC data in the North and South Forks of the Nooksack River and on the mainstem at Cedarville. The USGS will collect two to five SSC samples at each site and collaborate with the NIT to build SSC-turbidity relations for each fork of the river as well as the mainstem at Cedarville.

**Task 1d.** USGS will use the SSC-turbidity relations, the continuous turbidity records, and continuous streamflow records to calculate preliminary suspended-sediment loads at each of the five stations in the Nooksack River network from 2012 to 2017. Calculation of sediment loads using turbidity as a surrogate will follow established USGS protocol (Rasmussen and others, 2009) as applied to Washington State Rivers (see Curran and others, 2013). Load calculations will be reviewed and published if they meet quality standards. If load calculations do not meet quality standards, additional data collection beyond the scope of this investigation may be required before loads can be published by USGS.
Task 2. Create bathymetric and topographic maps and characterize facies along the mainstem Nooksack River and its delta

Task 2a. Collect high-resolution sidescan and bathymetry of the Nooksack River from Deming (flows permitting) to the mouth. A longitudinal profile and cross sections at a few selected reaches will be surveyed in 2015. A complete bathymetric survey will be conducted in 2016. The surveys will be conducted during the snowmelt period to increase boat accessibility and the overlap with topographic surveys (see task 2b). The bathymetric surveys will emphasize the river thalweg and selected cross-sections where flood conveyance of the channel may be relatively low. This task follows approaches taken by Grossman and others (2007).

Task 2b. Use aerial photogrammetry to construct high resolution topography for the Nooksack River corridor (active channel and banks). Aerial photographs will be collected once in 2015 under low-flow conditions and used to generate high resolution topography along the Nooksack River corridor. This task follows the “Structure from Motion” technique (for example, Hartley and Zisserman, 2003).

Task 2c. Integrate bathymetry and topography into a single digital elevation model of the mainstem Nooksack River and its delta.

Task 2d. Collect and analyze substrate samples for particle size to map and characterize facies distributions along the main stem Nooksack River. About 5 to 10 locations will be sampled to represent major longitudinal changes along the mainstem river and finer-scale heterogeneity within river reaches. These information help describe habitats, bed sediment and its recent transport dynamics, and provide baseline data to detect changes, including increases in sediment flux and coarsening under projected climate change.

Task 2e. Use the “Structure from Motion” technique and historical aerial imagery to reconstruct high-resolution DEMs of historical conditions along the Nooksack River corridor. Aerial photographs collected for photogrammetry by Whatcom County exist back to 1993 and will provide the most accurate results; lower-resolution imagery extending back to 1933 may also provide coarse measures of change over longer time-steps.

Task 3. Assess local hydraulics and channel dynamics of the lower Nooksack River.
Seasonal and event-scale channel dynamics will be assessed in the Nooksack River downstream of Ferndale during the winter of 2015-2016. Continuous river stage and groundwater level data at available wells will be collected at multiple (five) locations to develop longitudinal and lateral water-surface profiles at different stages. Channel cross-sections will be monitored before and after high flows at two sites to characterize local patterns of scour and fill. Channel dynamics will be analyzed with respect to hydrologic conditions including storm sequencing, rising/falling limbs of the hydrograph, and tidal conditions. This information will be used to assess how local hydraulics and channel dynamics may affect flooding and drainage in the lower river and whether changes are likely to be cyclic (seasonal) or trending (persistent).

Task 4. Analyze changes in the elevation of the mainstem Nooksack River and its delta including factors contributing to those changes. Changes in the volume of sediment stored along the mainstem of the Nooksack River and its delta will be estimated from extensive pre-existing data sets (high resolution topography and bathymetry, aerial imagery and grain size
measurements) and additional datasets to be collected as part of this study. Data collected during this investigation will be compared to other available bathymetric and cross-section data to determine if there are trends of aggradation along lower Nooksack River reaches. Particular focus will be placed on identifying and quantifying change at hydraulic controls in river channel, where change is most likely to directly affect flood conveyance and stage-discharge relations. The approach for this task will draw from Kerr Wood Leidal (2008), Wallick and others (2010), Wallick and others (2011), Czuba and others (2012), O’Connor and others (2014), Grossman and others (in review).

Measured sediment transport, grain size information, and sediment transport relations will be integrated to understand the transport and deposition of different size fractions of sediment along the mainstem Nooksack, based on the results of tasks 3 and 4. Evidence of hydrologic change, in-channel and floodplain modifications, and upstream land-use will be used to identify potential drivers of channel storage change. Means for assessing how the lower channel responds to future hydrology and sediment supply will be developed including specific monitoring options.

**Quality Assurance/Quality Control** – Surface water data collected for the project will follow the Washington Water Science Quality Assurance Plan (Kresch and Tomlinson, 2003 revised 2014). Suspended sediment concentrations and loads will be computed in accordance with Rasmussen and others (2009). Quality of topographic mapping will be assessed using benchmarks where the land surface elevation is known. Data and interpretive reports will be produced following USGS Fundamental Science Practices.

**Products** — The investigation will produce four data products and one peer-reviewed report. USGS data releases are peer-reviewed, web-accessible datasets based on documented (previously published) methods.

- USGS data release of digital elevation model integrating 2015 bathymetry and topography for the mainstem Nooksack River (April 2016)
- USGS data release of stage, water level, and channel cross-sections for the lower Nooksack River (September 2016)
- USGS data release of relations between suspended-sediment concentration and turbidity at 5 stations in the Nooksack River basin (June 2017)
- USGS data release of digital elevation model of 2016 bathymetry for the mainstem Nooksack River (April 2017)
- Final report on changes in the elevation of the mainstem Nooksack River including its delta and contributing factors approved for publication and either published as a USGS interpretive report or a peer-reviewed journal (December 2017)

**References Cited**


Kerr Wood Leidal, (2008), Updated sediment analysis for lower Nooksack River: Final report to Whatcom County Flood Control Zone District, KWL File No. 2039.008, 128 p.


**Timeline** — The timeline shown below assumes a starting date of July 15 2015.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>1a-c. Collect sediment and turbidity data</td>
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<td>X</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>1d. Develop SSC-turbidity relations, calculate preliminary loads</td>
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<td>X</td>
<td>X</td>
<td>X</td>
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<td>2. Digital elevation model (DEM) for mainstem Nooksack River including delta</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>2a. Collect bathymetry</td>
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<tr>
<td>2b. Collect topography</td>
<td>X</td>
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<tr>
<td>2c. Create DEM from field surveys and aerial photography</td>
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<td>X</td>
<td>X</td>
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<td>X</td>
<td>X</td>
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<tr>
<td>2d. Create facies map from field surveys</td>
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<td></td>
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<td>X</td>
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<tr>
<td>2e. Create DEMs from historical aerial photography</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
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<tr>
<td>3. Monitoring of hydraulics and geomorphology of lower Nooksack River</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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<tr>
<td>4. Analysis of channel changes and contributing factors</td>
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<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

**Personnel** - Staff from the Washington Water Science Center will include a surface water hydrologist/geomorphologist, surface water hydrologist, geomorphologist/geographer, and hydrologic technicians. Staff from Coastal Marine Geology will include a geomorphologist.

**Budget**

<table>
<thead>
<tr>
<th>Costs</th>
<th>FY2015</th>
<th>FY 2016</th>
<th>FY2017</th>
<th>FY2018</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor</td>
<td>49,350</td>
<td>152,775</td>
<td>98,438</td>
<td>14,800</td>
<td>309,828</td>
</tr>
<tr>
<td>Other expenses</td>
<td>37,520</td>
<td>41,615</td>
<td>48,002</td>
<td>-</td>
<td>132,672</td>
</tr>
<tr>
<td>Totals</td>
<td>86,870</td>
<td>194,390</td>
<td>146,440</td>
<td>14,800</td>
<td>442,500</td>
</tr>
</tbody>
</table>

**Funding**

<table>
<thead>
<tr>
<th>Source</th>
<th>FY2015</th>
<th>FY 2016</th>
<th>FY2017</th>
<th>FY2018</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whatcom County</td>
<td>52,122</td>
<td>116,634</td>
<td>87,864</td>
<td>8,880</td>
<td>265,500</td>
</tr>
<tr>
<td>USGS</td>
<td>34,748</td>
<td>77,756</td>
<td>58,576</td>
<td>5,920</td>
<td>177,000</td>
</tr>
</tbody>
</table>
Job Hazard Analysis For New Projects

- Check the numbered box(s) for all significant safety concerns this project should address. Significant safety concerns are commonly those that require training, purchase of safety equipment, or specialized preparation to address potentially hazardous conditions.
- Identify any unlisted safety concerns at bottom of the page.
- Provide details on the back of this page.

Project Number: XXXXX
Project Title: (Short) Nooksack River Geomorph
Project Chief: C. Konrad

Safety Concerns

1. ☑ Wading, bridge, boat, or cableway measurements or sampling
2. ☑ Working on ice covered rivers or lakes
3. ☑ Measuring or sampling during floods
4. ☑ Well drilling; borehole logging
5. ☑ Electrical hazards in the work area
6. Construction
7. ☑ Working in remote areas, communication, office call in procedures
8. ☑ Ergonomics, carpal tunnel syndrome, musculoskeletal
10. ☑ All terrain vehicles, snowmobiles
11. ☑ Helicopter or fixed wing aircraft usage
12. ☑ Site access
13. ☑ Hypothermia or heat stroke
14. ☑ Hantavirus, Lyme Disease, Histoplasmosis, Pfiesteria, Others?
15. ☑ Contaminated water with sanitary, biological, or chemical concerns
16. ☑ Immunizations
17. ☑ Laboratory or mobile laboratory. Chemical hygiene plan.
18. ☑ Hazardous waste disposal
19. ☑ Hazardous waste site operations
20. ☑ Confined space
21. ☑ Radioactivity
22. ☑ Respiratory protection
23. ☑ Scuba Diving
24. ☑ Electrofishing

For each numbered box checked on the previous page, briefly:
A. Describe the safety concern as it relates to this project.
<table>
<thead>
<tr>
<th>Box no.</th>
<th>A: This project requires routine sampling of rivers from vehicle bridges. Under normal conditions, vehicle traffic and operation of standard USGS bridge cranes with heavy samplers are the principal safety hazards to address.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B: For vehicle traffic, orange safety cones are used to cordon off a safe working zone on the bridge. Traffic safety signs are positioned on both sides of the bridge. Site-specific traffic safety plans are available and provided to personnel working on bridges. Personnel wear high visibility clothing and PFDs. Individuals operating USGS bridge cranes either have multiple years of experience within the USGS of safely performing this task or are under direct supervision of someone with such experience while performing this task.</td>
</tr>
<tr>
<td></td>
<td>C: This project requires sampling and measurements of river morphology from boats. Boat operators will have current USGS certification and will file a ‘float plan’ in accordance with WAWSC safety procedures for every day on the water. Personnel wear high visibility clothing and PFDs. “Off the water” call-in procedures to a supervisor or person holding the float plan are in effect.</td>
</tr>
<tr>
<td></td>
<td>D: Cost is negligible as all safety gear is purchased and available within the WAWSC.</td>
</tr>
<tr>
<td>3</td>
<td>This project requires sampling rivers from vehicle bridges during highwater and flooding conditions. Floating debris and low visibility will likely exist during rain events associated with high water. Under these conditions, vehicle traffic and operation of standard USGS bridge cranes with heavy samplers are the principal safety hazards to address.</td>
</tr>
<tr>
<td></td>
<td>B: Procedures detailed in 1B above will be used for flood sampling as well. A minimum of two people will be used to work from bridge or on boats with one person acting as a lookout for floating debris moving downstream. Breakaway sounding reel cables will be used and cable cutters will be accessible for rapid cutting of the cable in the event of a snag. In low light conditions, reflective cone sleeves and/or flashing cone lights will be used to increase driver awareness of work zone.</td>
</tr>
<tr>
<td></td>
<td>C: Cost is negligible as all safety gear is purchased and available within the WAWSC.</td>
</tr>
<tr>
<td>7</td>
<td>A: This project requires work in possibly remote areas.</td>
</tr>
<tr>
<td></td>
<td>B: Office call-in procedures to a supervisor are used when work is complete. Cell phones are always carried. If work is performed in areas of no cell service, a satellite phone will be carried for emergency purposes.</td>
</tr>
<tr>
<td></td>
<td>C: No cost.</td>
</tr>
<tr>
<td>8</td>
<td>A: This project involves heavy objects, such as cranes and samplers, that need to be lifted manually that could lead to musculoskeletal injuries.</td>
</tr>
<tr>
<td></td>
<td>B: Cranes will be used to lift heavy objects whenever possible. If manually lifting heavy objects, proper lifting techniques will be used and objects will never be lifted if outside of the safe lifting zone. Weights and other equipment will never be lifted by reaching over a guardrail and out of the safe lifting zone.</td>
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<tr>
<td></td>
<td>C: No cost.</td>
</tr>
</tbody>
</table>
A: This project requires flights in small fixed-wing aircraft. Hazards associated with small-craft flying include dangers of working around aircraft on the ground and flying in fixed-wing aircraft on a special-use mission.

B: Project staff on missions have completed the Interagency Aviation Training A-100, basic aviation safety. Staff will be familiar with and follow standard safety procedures. Standard safety equipment will be used. A copy of the flight plan will provided to the Washington Water Science Center Safety Office. The pilot will be FAA-certified and DOI-vetted and provide a safety talk regarding onboard safety equipment and emergency procedures. Flight tracking will be used during the flight.

<table>
<thead>
<tr>
<th>Discussed job hazard analysis (JHA) with District</th>
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<tbody>
<tr>
<td>Collateral Duty Safety Officer</td>
</tr>
<tr>
<td>and/or copy of JHA given to Collateral Duty Safety Officer</td>
</tr>
</tbody>
</table>

District Chief ___________________________ Date ____________

Regional Program Officer ___________________________ Date ____________
TITLE OF DOCUMENT: 2015 Supplemental Budget Request #8

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #8 requests funding from the General Fund:
1. To appropriate $14,635 in the Sheriff’s Department to fund equipment purchases from auction proceeds.
2. To appropriate $123,078 in Non-Departmental to fund Opportunity Council public services program from grant proceeds.

COMMITTEE ACTION:

COUNCIL ACTION:
7/7/2015: Introduced 7-0

Related County Contract #:  
Related File Numbers:  
Ordinance or Resolution Number:
ORDINANCE NO.
AMENDMENT NO. 8 OF THE 2015 BUDGET

WHEREAS, the 2015-2016 budget was adopted November 25, 2014; and,
WHEREAS, changing circumstances require modifications to the approved 2015-2016
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 2015-2016
Whatcom County Budget Ordinance #2014-065 is hereby amended by adding the following
additional amounts to the 2015 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sheriff</td>
<td>14,635</td>
<td>(14,635)</td>
<td>-</td>
</tr>
<tr>
<td>Non Departmental</td>
<td>123,078</td>
<td>(123,078)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>137,713</td>
<td>(137,713)</td>
<td>-</td>
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<tr>
<td>Total Supplemental</td>
<td></td>
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<tr>
<td></td>
<td>137,713</td>
<td>(137,713)</td>
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</tr>
</tbody>
</table>

ADOPTED this ____ day of ____________________, 2015.

ATTEST:

Dana Brown-Davis, Council Clerk

Carl Weimer, Chair of the Council

APPROVED AS TO FORM:

Civil Deputy Prosecutor

( ) Approved     ( ) Denied

Jack Louws, County Executive

Date: __________________________

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
<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>General Fund</td>
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<tr>
<td>Sheriff</td>
<td>To fund equipment purchases from auction proceeds.</td>
<td>14,635</td>
<td>(14,635)</td>
<td></td>
</tr>
<tr>
<td>Non Departmental</td>
<td>To fund Opportunity Council public services program from grant proceeds.</td>
<td>123,078</td>
<td>(123,078)</td>
<td></td>
</tr>
<tr>
<td>Total General Fund</td>
<td></td>
<td>137,713</td>
<td>(137,713)</td>
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<tr>
<td>Total Supplemental</td>
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<td>137,713</td>
<td>(137,713)</td>
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</tbody>
</table>
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: June 19, 2015
SUBJECT: Supplemental Budget ID# 1978
Auction Proceeds Equipment Purchases 2015

The attached Supplemental Budget requests authority to use proceeds from firearms auction to purchase tools and equipment needed for Sheriff’s Office Records and Patrol units.

Background and Purpose
Efficient storage and inventory of evidence is essential, and the Sheriff’s Office continues to enhance systems to improve efficiencies.

Equipment will be purchased to enhance the options available for remote storage at the evidence building located at the Central Shop facility. Evidence tracking software that will interface with the current evidence intake and tracking software will be purchased to update current method of downloading digital pictures. Other computing equipment and electronic/wireless scanning tools and printers will be purchased to enhance the ability of crime scene personnel to enter items directly into the evidence software at the crime scene via a computer. This will minimize the need to purchase additional licenses for present evidence tracking system and maximize investigator evidence collection efficiencies. A mounted security camera system for the evidence booking and storage areas and internal evidence rooms is also being considered.

In addition to Records equipment, the Sheriff’s Office requires replacement of a patrol rifle.

Funding Amount and Source
The Sheriff’s Office held an auction in May 2015. Proceeds from the auction totaled $14,635 with the following deposits: $11,050 Treasurer’s Receipt #290843 dated 06/08/15 and $3,585 Treasurer’s Receipt #290921 dated 06/10/15.

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

Thank you.
Supplemental Budget Request

Status: Pending

Sheriff Operations

Supp’l # 1978 Fund 1 Cost Center 2911 Originator: Dawn Pierce

Expenditure Type: One-Time Year 1 2015 Add’l FTE ☐ Add’l Space ☐ Priority 1

Name of Request: Auction Proceeds Equipment Purchases 2015

X

Department Head Signature (Required on Hard Copy Submission) Date 6/19/15

Costs: Object Object Description Amount Requested
4369.3000 Confiscated and Forfeited Property ($14,635)
6510 Tools & Equip $14,635

Request Total $0

1a. Description of request:
Purchase tools and equipment needed by the Sheriff’s Office Records and Patrol units. Anticipated purchases for the Records Division to improve evidence storage and inventory include: pallet jack, mobile stairs, safe, fencing materials, drying and storage equipment for seized marijuana and larger items associated with drug trafficking, drying solutions for blood borne items, mounted security camera system, evidence tracking software, and computing equipment and electronic/wireless scanning tools and printers. Anticipated purchase by Patrol include replacement of patrol rifle.

1b. Primary customers:
Sheriff’s Office

2. Problem to be solved:
Efficient storage and inventory of evidence is essential, and the Sheriff’s Office continues to enhance systems to improve efficiencies. In addition, the Sheriff’s Office requires replacement of a patrol rifle.

3a. Options / Advantages:

3b. Cost savings:

4a. Outcomes:
Sheriff’s Office will make improvements in the area of evidence storage and replace patrol rifle.

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:
Proceeds of $14,635.00 from 2015 firearms auction.
MEMORANDUM

To: Whatcom County Council Members
From: Jack Louws
Subject: Budget Supplemental, Opportunity Council Grant
Date: June 22, 2015

The attached supplemental request for $123,078 is for the purposes of establishing budget authority in order to pass-through an available grant from the Washington State Department of Commerce to the Opportunity Council. This grant was applied for and authorized by the County Council in March, and has been granted for the delivery of direct services by the Opportunity Council as the local community action agency.

This grant is a HUD formula grant, issued annually, and passed through Dept. of Commerce for Community Development Block Grant Programs, for which Opportunity Council qualifies for this financial assistance. Whatcom County has been designated by the Dept. of Commerce as the grantee for the purpose of contracting with the Opportunity Council as a subrecipient for this grant award of $123,078.00.

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

Whatcom County has executed a contract with the State Department of Commerce for this funding. Council’s authorization for this supplemental request will result in the execution of a Subrecipient Agreement with the Opportunity Council to implement the designated services noted herein.
Supplemental Budget Request

Executive

Supp ID # 1979  
Fund 1  
Cost Center 4277  
Originator: Suzanne Mildner

Expenditure Type: One-Time  
Year 1 2015  
Add'l FTE □  
Add'l Space □  
Priority 1

Name of Request: OppCo Public Services CDBG Grant 2015-16

X

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>
</tr>
</thead>
<tbody>
<tr>
<td>4333.1422</td>
<td>HUD-CDBG</td>
<td></td>
<td>($123,078)</td>
</tr>
<tr>
<td>6610</td>
<td>Contractual Services</td>
<td></td>
<td>$123,076</td>
</tr>
<tr>
<td>Request Total</td>
<td></td>
<td></td>
<td>$0</td>
</tr>
</tbody>
</table>

1a. Description of request:
This request is for grant revenue from the Washington State Department of Commerce, for pass through to the Opportunity Council as subrecipient. This is an annual formula grant called CDBG Public Services, for delivery of direct housing services to low- and moderate-income residents in Whatcom, Island and San Juan Counties.

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

2. Problem to be solved:
The public services provided include community outreach, resource referral, client housing education, energy conservation education and other housing services.

3a. Options / Advantages:
None

3b. Cost savings:
N/A

4a. Outcomes:
Accomplish HUD’s objective of increasing the availability and accessibility of housing public services. This is an annual formula grant and the contract period is July 1, 2015 to June 30, 2016.

4b. Measures:
Opportunity Council will submit ongoing reports, both fiscal and narrative, regarding service delivery. The grant closeout and final report will occur only after evidence of all grant requirements have been met.

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

5b. Name the person in charge of implementation and what they are responsible for:
Dave Finet, Opportunity Council Director and contract signatory; Sheri Emerson, O/C Associate Director, oversees the contract programming.

6. Funding Source:
Federal grant from HUD through the State Department of Commerce’s CDBG Program.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>pj</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Division Head:</td>
<td>K</td>
<td>6/25/15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>AO</td>
<td>6/25/15</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Prosecutor:</td>
<td>C. C.</td>
<td>6/29/15</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>B. A</td>
<td>6/29/15</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td>D. A.</td>
<td>7/1/15</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:** Contract amendment between Whatcom County and National Alliance on Mental Illness (NAMI)

**ATTACHMENTS:**
1. Info Sheet
2. Executive Memo
3. 2 copies of contract amendment

**SEPA review required?** ( ) Yes ( X ) NO  
**SEPA review completed?** ( ) Yes ( X ) NO  
**Should Clerk schedule a hearing?** ( ) Yes ( X ) NO  
**Requested Date:**

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The purpose of this contract is to provide education and evidence-based support programs to individuals and groups. The purpose of this amendment is to increase funding for construction of a new web-based directory of mental health providers 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>
</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: National Alliance on Mental Illness (NAMI) of Whatcom County, Community Education and Support Contract Amendment #2

DATE: June 25, 2015

Enclosed are two (2) originals of a contract between Whatcom County and NAMI for your review and signature.

- Background and Purpose
Whatcom County residents who personally experience, or have loved ones who experience mental illness are better able to lead productive lives when provided with education and support. Education and support can also reduce the stigma of mental illness and promote access to necessary treatment services. Mental illness can be a chronic condition, yet ongoing recovery is achievable, especially when supports and services are accessible and utilized.

The Whatcom County Mental Health Program contracts with NAMI of Whatcom County to provide education and evidence-based support programs to individuals and groups. The purpose of this amendment is to add an additional $3,000 in funding to support construction of an improved mental health services provider directory to be accessed through NAMI's website.

- Funding Amount and Source
Funding for this contract amendment in the amount of $3,000 is from the Chemical Dependency/Mental Health Program Fund. Council approval is required because this addition to the contract budget exceeds 10% of the budget originally approved by Council. An agenda bill is attached.

- Differences from Previous Contract
This amendment includes a new contract budget increasing funding for professional services associated with website development.

Please contact Joe Fuller at extension 30684, 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>Health</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Joe Fuller</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>National Alliance on Mental Illness (NAMI) of Whatcom County</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 #: 201401028

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): CFDA#: ___________

Is this contract grant funded? Yes ☐ No ☒ If yes, Whatcom County grant contract number(s): ___________

Is this the result of a RFP or Bid process? Yes ☐ No ☒ If yes, RFP and Bid number(s): ___________

Contract Amount: (sum of original contract amount and any prior amendments):

| $ 45,830 |

This Amendment Amount: $ 3,000

Total Amended Amount: $ 48,830

Summary of Scope: The purpose of this contract is to provide education and evidence-based support programs on mental illness to individuals and groups.

Term of Contract: 10 months Expiration Date: 12/31/2015

WHATCOM COUNTY HEALTH DEPARTMENT CONTRACT AMENDMENT

Whatcom County # 201401028

PARTIES:
Whatcom County
Whatcom County Courthouse
311 Grand Avenue
Bellingham, WA 98225

AMENDMENT NUMBER: 2

AND CONTRACTOR:
National Alliance on Mental Illness
P. O. Box 5571
Bellingham, WA 98227

CONTRACT PERIODS:
Original: 03/01/2014 – 02/28/2015
Amendment #1 03/01/2015 – 12/31/2015
Amendment #2 08/01/2015 – 12/31/2015

THE CONTRACT IDENTIFIED HEREIN, INCLUDING ANY PREVIOUS AMENDMENTS THERETO, IS HEREBY AMENDED AS SET FORTH IN THE DESCRIPTION OF THE AMENDMENT BELOW BY MUTUAL CONSENT OF ALL PARTIES HERETO

=================================================================

DESCRIPTION OF AMENDMENT:

1. Amend Exhibit B, by adding $3,000 to the contract budget. An amended Exhibit B is attached.

2. Funding for the current contract period (03/01/2015 – 12/31/2015) is not to exceed $23,830.

3. Funding for the total contract period (03/01/2014 – 12/31/2015) is not to exceed $48,830.

4. The effective date of the amendment is August 1, 2015 regardless of the date signed.
ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND ANY PREVIOUS AMENDMENTS THERETO REMAIN IN FULL FORCE AND EFFECT.

ALL PARTIES IDENTIFIED AS AFFECTED BY THIS AMENDMENT HEREBY ACKNOWLEDGE AND ACCEPT THE TERMS AND CONDITIONS OF THIS AMENDMENT.

Signature is required below.

APPROVAL AS TO PROGRAM: ___________________________ 6/25/15
Anne Deacon, Human Services Division Manager

DEPARTMENT HEAD APPROVAL: ___________________________ 6/25/15
Regina A. Delahunt, WCHD Director

APPROVAL AS TO FORM: ___________________________ 6/29/15
Royce Buckingham, Civil Deputy Prosecutor

FOR THE CONTRACTOR:

__________________________ ___________________________ 6/28/2015
Contractor Signature Print Name and Title

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this 23rd day of June, 2015, before me personally appeared
Christine Morrow, President who acknowledged to me the act of signing and sealing thereof.

__________________________
Jackie Goodall
NOTARY PUBLIC in and for
the State of Washington
Residing at Bellingham.

My Commission expires: July 30, 2017

FOR WHATCOM COUNTY:

__________________________ Date
Jack Louws
County Executive

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this ________ day of _____________________, 2015, 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.

__________________________
Jackie Goodall
NOTARY PUBLIC in and for
the State of Washington
Residing at Bellingham.

My Commission expires:
I. **Budget and Funding**

1. Funding for this contract is supported by the Chemical Dependency/Mental Health Program Fund and shall not exceed $23,830 for the contract period.

2. Cost reimbursement will be according to the contract budget below as follows:

<table>
<thead>
<tr>
<th>Line Item</th>
<th>Documentation Required with Invoice</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff Time – salary benefits, taxes</td>
<td>Approved hourly billing rate and timesheet showing total hours and hours charged to this contract</td>
<td>$10,580</td>
</tr>
<tr>
<td>Location Rental</td>
<td>Receipts</td>
<td>415</td>
</tr>
<tr>
<td>Teacher Fee/Speaker Honorarium</td>
<td>Fee/honorarium documentation must detail each individual, number of hours, activity supported, total amount, date of support, and include a signature of the stipend recipient</td>
<td>750</td>
</tr>
<tr>
<td>Telephone &amp; Data Storage</td>
<td>Provider Invoices</td>
<td>670</td>
</tr>
<tr>
<td>Supplies, Materials, Printing, Advertising</td>
<td>Receipts</td>
<td>4,875</td>
</tr>
<tr>
<td>Professional Services – Website development</td>
<td>Invoices</td>
<td>5,500</td>
</tr>
<tr>
<td>Web Provider Directory Maintenance (not to exceed $25 per hour)</td>
<td>Pay stub</td>
<td>625</td>
</tr>
</tbody>
</table>

**Professional Development, Training and Travel**

- Ground transportation, coach airfare, and ferries will be reimbursed at cost when accompanied by receipts. Reimbursement requests for allowable travel must include name of staff member, dates of travel, starting point and destination, and a brief description of purpose.
- Receipts for registration fees or other documentation of professional training expenses.
- Lodging and meal costs for training are not to exceed the U.S. General Services Administration Domestic Per Diem Rates (www.gsa.gov), specific to location. Receipts for meals are not required. Receipts required for tuition or registration fees.

| TOTAL                                                                 | $23,830 |

The contractor may transfer between line items with written approval by the County Contract Administrator.

II. **Invoices**

1. The Contractor shall submit an invoice in a format approved by the County. Invoices shall include an itemization of programs delivered under this contract for the invoiced period, the dates for each class/group delivered in each program, and a copy of the flyer for each Educational Community Forum delivered. Receipts for telephone reimbursement shall accompany each invoice as well.
2. The Contractor shall submit invoices to (Include Contract#):

Attention: Business Office
Whatcom County Health Department
509 Girard Street
Bellingham, WA 98225

Or by email to: HL-BusinessOffice@co.whatcom.wa.us

3. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from the Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

4. Invoices must include the following statement, with an authorized signature and dated:

I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

5. Duplication of Billed Costs or Payments for Service: The Contractor shall not bill the Health Department for services performed or provided under this contract, and the Health Department shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
# WHATCOM COUNTY COUNCIL AGENDA BILL

**Title:** Award Bid 15-54 Supply of Rubber-Molded Steel Apron Flaps for the Lummi Island Ferry Terminal

**Attachments:** Memos from Finance and Public Works

**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.)*

Public Works Engineering is requesting approval to award bid 15-54 for the supply of rubber-molded steel apron flaps for the Lummi Island ferry terminal to the responsive bidder, Scougal Rubber Corporation. The total cost is $145,603.60. This is a planned purchase and adequate funds are available in the current Road Fund budget.

**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.
DATE:    July 8, 2015  
TO:     Jack Louws, County Executive  
FROM:  Brad Bennett, AS Finance Manager  
SUBJECT:  Approval to Purchase Fleet Vehicle Parts  

- Background & Purpose  
  Bids were duly advertised for the supply of rubber-molded steel apron flaps for the Lummi Island ferry terminal. One bid was received on Tuesday, July 7, 2015, noted below.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Total Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scougal Rubber Corporation</td>
<td>$145,603.60</td>
</tr>
</tbody>
</table>

Public Works is requesting approval to award to the responsive bidder, Scougal Rubber Corporation, Seattle, for a total of $145,603.60.

- Funding  
  This is a planned expenditure, and funds for this purchase are included in the Road Fund budget. I concur with this recommendation.

  [Signature]
  AS Finance Manager

Approved as recommended:

__________________________________________
County Executive

Date of Council Action _______________
MEMORANDUM

To: Brad Bennett, Finance Manager
Through: Jon Hutchings, Director
From: Joe Rutan, P.E., Assistant Director/County Engineer
        James E. Lee, P.E., Engineering Manager
Date: July 8, 2015
Re: Recommendation for Award of Bid No. 15-54, Supply of Rubber-Molded Steel Apron Flaps for the Lummi Island Ferry Terminal, CRP 915023

The above-referenced bid was advertised on June 17 and June 24, 2015. One responsible bid was received and opened at 2:30 PM on July 7, 2015. The following table summarizes the results of the bid opening:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scougal Rubber Corporation</td>
<td>$145,603.60</td>
</tr>
</tbody>
</table>

The Engineer’s Estimate for this item was $175,900.00. It is our recommendation that award of Bid No. 15-54 be made to Scougal Rubber Corporation as the lowest responsible bidder in the amount of $145,603.60.

These rubber-molded steel apron flaps are replacements for the existing steel apron flaps and will be similar to the ones that Washington State Ferries use. The new apron flaps will be installed by M&O and ER&R staff.

Please contact James Lee at extension 50617 should you require any further information regarding this issue.
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>PJ</td>
<td>6/14/15</td>
<td></td>
<td>7/21/15</td>
<td>Finance/Council</td>
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<tr>
<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
<td></td>
<td>7/13/15</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td>7-13/5</td>
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<td></td>
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</tr>
<tr>
<td>Purchasing/Budget</td>
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<td>7/13/15</td>
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<tr>
<td>Executive:</td>
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<td>7/13/15</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:** Skagit County Contract for Nurse-Family Partnership Nurse Supervisor

**ATTACHMENTS:**
- Contract Info Sheet
- Memo to Executive
- 2 Originals of Contract Agreement

**SEPA review required?** ( ) Yes  (X) NO  
**SEPA review completed?** ( ) Yes  ( ) NO

**Summary Statement or Legal Notice Language:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

This contract supplies funding for a Nurse Supervisor who will provide clinical supervision and oversight to Whatcom County Nurse Home Visitors as part of the Nurse-Family Partnership Program. Nurse-Family Partnership (NFP) is an evidence-based home visiting program that follows specific model elements developed by the NFP National office to ensure the best outcomes for families including enhanced child development and well-being, reduced incidence of child abuse and neglect, and improved school readiness.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: www.co.whatcom.wa.us/council.
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Regina A. Delahunt
RE: Skagit County – Nurse Family Partnership Supervision
DATE: July 10, 2015

Enclosed are two (2) originals of a contract for a Nurse Family Partnership Nurse Supervisor between Skagit County and Whatcom County for your review and signature.

- **Background and Purpose**
  A strategy identified in the Community Health Improvement Plan is the delivery of coordinated health and social service supports to at-risk young families in order to promote positive outcomes for Whatcom County children. Funded by a grant from Thrive Washington, our Nurse-Family Partnership (NFP) program began in 2012 and is an evidence-based home visiting program that delivers enhanced child development, reduced incidence of child abuse, and improved school readiness. This Interlocal Cooperative Agreement with Skagit County funds the required Nurse Supervisor who provides clinical supervision and oversight to Whatcom County nurse home visitors.

- **Funding Amount and Source**
  This contract, in the amount of $28,000 is funded with a grant from the Thrive By Five Washington Home Visiting Service Account. Council approval is required and an Agenda Bill is attached.

- **Differences from Previous Contract**
  This is a new contract, but very similar to the agreement that has been in place with Skagit County since 2012.

Please contact Judy Ziels at extension 32023, if you have any questions or concerns regarding the terms of this agreement.

Encl.
WHATCOM COUNTY CONTRACT
INFORMATION SHEET

Originating Department: Health
Contract or Grant Administrator: Judy Ziels
Contractor's / Agency Name: Skagit County

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)
If yes, grantor agency contract number(s): ☑
CFDA#: ☑

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): 201408002

Is this contract the result of a RFP or Bid process? ☑ Yes ☑ No ☐
If yes, RFP and Bid number(s): Contract Cost Center: 621210

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 is for less than $100,000.
☐ Contract work is for less than 120 days.
☒ Interlocal Agreement (between Governments).
☐ Contract for Commercial off the shelf items (COTS).
☐ Work related subcontract less than $25,000.
☐ Public Works - Local Agency/Federally Funded FHWA.

Contract Amount: (sum of original contract amount and any prior amendments):
$ 28,000

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: A strategy identified in the Community Health Improvement Plan is the delivery of coordinated health and social service supports to at-risk young families in order to promote positive outcomes for Whatcom County children. Funded by a grant from Thrive Washington, our Nurse-Family Partnership (NFP) program began in 2012 and is an evidence-based home visiting program that delivers enhanced child development, reduced incidence of child abuse, and improved school readiness. This Interlocal Cooperative Agreement with Skagit County funds the required Nurse Supervisor who provides clinical supervision and oversight to Whatcom County Nurse Home Visitors.

Term of Contract: 1 year
Expiration Date: 06/30/2016

Contract Routing:
1. Prepared by: pj
2. Attorney signoff: rb
3. AS Finance reviewed: bbennett
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:

Date: 6/15/15
Date: 6/23/15
Date: 6/22/15
Date: 6/29/15
Date: 7/13/15
INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

Whatcom County
AND
Skagit County

THIS AGREEMENT is made and entered into by and between Whatcom County, Washington ("Whatcom") and Skagit County, Washington ("County") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

1. PURPOSE: Whatcom County Health Department intends to deliver Nurse-Family Partnership home visiting services to pregnant and parenting women living in Whatcom County who would benefit from the intense support offered through this program. Nurse-Family Partnership (NFP) is an evidence-based home visiting program that follows specific model elements developed by the NFP National office to ensure the best outcomes for families. In order to provide these services locally, the Whatcom County Health Department (WCHD) intends to join with the existing Nurse-Family Partnership team at Skagit County Public Health (SCPH). This partnership will allow the two counties to mutually develop a robust NFP program while each partner serves families in their own specific jurisdiction.

WCHD and SCPH understand and agree that NFP Program implementation by both parties must be based on key parameters (Model Elements) identified through research and refined based upon the NFP Program's experience since 1997 and attached to this agreement as Exhibit A, Nurse-Family Partnership Model Elements.

WCHD and SCPH understand and agree that Nurse-Family Partnership grants to WCHD and SCPH a non-exclusive limited right and license to use NFP proprietary property for the purpose of carrying out the obligations of this contract. Nurse-Family Partnership reserves the right to modify the proprietary property from time to time in accordance with the data, research, and current modalities of Program delivery. Nurse-Family Partnership shall retain ownership and all the rights to any proprietary property, whether modified or not by WCHD and/or SCPH. In any event, all software, Nurse-Family Partnership Community and Efforts to Outcomes Website content, excluding WCHD data shall remain the sole property of Nurse-Family Partnership.

2. STATEMENT OF WORK: This Statement of Work outlines the specific responsibilities of the Whatcom County Health Department and Skagit County Public Health as part of this Nurse-Family Partnership team.

Whatcom County Health Department (WCHD) will:

- Employ the Whatcom County Nurse Home Visitors and provide administrative supervision and support of those employees.
- Coordinate with Skagit County Public Health to maintain NFP model fidelity.
• Maintain primary responsibility for many of the NFP implementation requirements in Whatcom County including:
  o Recruitment of participants in Whatcom County
  o Development of a unique Community Advisory Board
  o Ensuring training of Nurse Home Visitors
  o Ensuring Nurse Home Visitors meet case load and visit frequency requirements
  o Entering and managing local data in a unique Whatcom County NFP Efforts to Outcomes data account as outlined by the National Service Office

**Skagit County Public Health (SCPH)** will be responsible for the following:

**Staffing**

• Maintain an NFP Nurse Supervisor that meets the Supervisor qualifications as outlined by the NFP National Service Office.

**Clinical Supervision and Team Meetings**

• Provide each Nurse Home Visitor reflective and clinical supervision by the SCPH Nurse Supervisor at the frequency required to maintain model fidelity of the NFP, as outlined in **Exhibit A**. Supervision will include:
  o Weekly one-on-one reflective supervision for at least one hour
  o Twice per month case conferences
  o Twice per month team meetings
  o In-home observations with each Nurse Home Visitor three times per year

• Supervision and team meetings may occur through three modalities: face-to-face, teleconference, or video conference.

**Staff Performance Review**

• The SCPH Nurse Supervisor will be solicited to provide critical input for the performance appraisal of the WCHD Nurse Home Visitors. The SCPH Nurse Supervisor will provide this input at least quarterly to the WCHD.

**Interagency Communication**

• The SCPH Nurse Supervisor and the WCHD will communicate at least twice monthly to coordinate program activities and WCHD Nurse Home Visitor supervision at mutually agreeable times.

**Thrive Washington Site Visits**

• The SCPH Nurse Supervisor will be available as needed to cooperate with up to eight scheduled site visits conducted by Thrive Washington during the grant cycle.

**Nurse-Family Partnership Program Fidelity**

• SCPH will ensure best practices are being employed to maintain NFP model fidelity to the best of their ability. This includes maintenance of a valid annual contract by SCPH with the NFP National Service Office for consultation, technical assistance and site support.
3. TERM OF AGREEMENT: The term of this Agreement shall be from 7/1/2015 through 6/30/2016 regardless of the date signed. The duration of this Agreement may be extended by mutual written consent of the parties.

4. MANNER OF FINANCING: Compensation for this agreement shall be as specified in Exhibit B attached.

5. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The County's representative shall be

Jennifer Sass-Walton, RN, BSN
Child and Family Health Manager
Skagit County Public Health
700 South Second, Rm 301
Mount Vernon WA 98273
jennis@co.skagit.wa.us

5.2 Whatcom's representative shall be

Judy Ziels, RN, MPH, CPH
Public Health Nurse
Child and Family Health
Whatcom County Health Department
1500 North State Street,
Bellingham WA 98225
360.676.6762 ext. 32023
jziels@whatcomcounty.us

6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION AND HOLD HARMLESS: Each party shall hold harmless, indemnify and defend the other party, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss expenses, damages and judgments of any nature whatsoever, including costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the acts, errors or omissions of it, its employees, agents or subcontractors, in the performance of this Agreement, provided, however, that a party's obligations hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence or willful misconduct of the other party, its officers, officials, employees, or agents, and provided further, that in the event of the concurrent negligence of the parties, a party's obligations hereunder shall apply only to the percentage of fault attributable to it, its officers, officials, employees, or agents. However, Whatcom County agrees to hold harmless, indemnify and defend Skagit County, its officers, elected officials, employees and agents, from and against any and all claims, action, suits, liability, loss expenses, damages and judgments of any nature whatsoever, including costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the acts, errors or omissions related to the responsibilities and activities of the NFP Nurse Supervisor while acting for or on the behalf of Whatcom County.
8. TERMINATION: Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS: The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. SEVERABILITY: In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

11. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

12. OTHER PROVISIONS:

Proof of Insurance: Skagit County shall carry for the duration of this Agreement general liability and property damage insurance with the following minimums:

- Property Damage per occurrence - $500,000.00
- General Liability & Property Damage for bodily injury- $1,000,000.00
- Professional Liability per occurrence - $1,000,000

In the event Contractor cancels or does not renew or extend existing claims made insurance coverage Contractor will obtain tail coverage to cover any claims filed for a period of 3 years subsequent to the termination of the original policy.

A certificate of such insurance is attached hereto as Exhibit "C".
PROGRAM APPROVAL

Astrid Newell, CH Manager

7/10/15

Date

WHATCOM HEALTH DEPARTMENT APPROVAL

Regina A. Delahunt, Director

7/13/15

Date

WHATCOM COUNTY

JACK LOUWS
County Executive

STATE OF WASHINGTON

COUNTY OF WHATCOM

On this _____ day of __________________, 2015, 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:

Whatcom Deputy Prosecuting Attorney

7/13/15

Date
DATED this 29 day of June, 2015.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Kenneth A. Dahliedt, Chair

Lisa Janicki, Commissioner

Ron Wesen, Commissioner

Attest:

Amber Kilgore
Clerk of the Board

Recommended:

Jennifer Johnson
Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director

For contracts under $5,000:
Authorization per Resolution R20030146

County Administrator
EXHIBIT "A"
(NURSE FAMILY PARTNERSHIP MODEL ELEMENTS)

CLIENTS
Element 1 Client participates voluntarily in the Nurse-Family Partnership program.
   Nurse-Family Partnership services are designed to be supportive and build self-efficacy. Voluntary enrollment promotes building trust between the client and her nurse home visitor. Choosing to participate empowers the client. Involuntary participation is inconsistent with this goal. It is understood that agencies may receive referrals from the legal system that could be experienced by the client as a requirement to participate. It is essential that the decision to participate be between the client and her nurse without any other pressure to enroll.

Element 2 Client is a first-time mother.
   First-time mother is a nulliparous woman, having no live births. Nurse-Family Partnership is designed to take advantage of the ecological transition, the window of opportunity, in a first-time mother's life. At this time of developmental change a woman is feeling vulnerable and more open to support.

Element 3 Client meets low-income criteria at intake.
   The Elmira study was open to women of all socioeconomic backgrounds. The investigators found that higher-income mothers had more resources available to them outside of the program, so they did not get as much benefit from the program. From a cost-benefit and policy standpoint, it's better to focus the program on low-income women. Implementing agencies, with the support of the Nurse-Family Partnership National Service Office, establish a threshold for low-income clients in the context of their own community for their target population.

Element 4 Client is enrolled in the program early in her pregnancy and receives her first home visit by no later than the end of the 28th week of pregnancy.
   A client is considered to be enrolled when she receives her first visit and all necessary forms have been signed. If the client is not enrolled during the initial home visit, the recruitment contact should be recorded in the client file according to agency policy. It is recommended that only one pre-enrollment visit be provided. Early enrollment allows time for the client and nurse home visitor to establish a relationship before the birth of the child, and allows time to address prenatal health behaviors which affect birth outcomes and the child's neurodevelopment. Additionally, program dissemination data show that earlier entry into the program is related to longer stays during the infancy phase, increasing a client's exposure to the program and offering more opportunity for behavior changes.

INTERVENTION CONTEXT
Element 5 Client is visited one-to-one: one nurse home visitor to one first-time mother/family.
   Clients are visited one nurse home visitor to one first-time mother. The mother may choose to have other supporting family members/significant other(s) in attendance during scheduled visits. In particular, fathers are encouraged to be part of visits when possible and appropriate. The nurse home visitor engages in a therapeutic nurse-client relationship focused on promoting the client's abilities and behavior change to protect and promote her own health and the well-being of her child. It is important for nurse home visitors to maintain professional boundaries within the nurse-client relationship.
Some agencies have found it useful to have other nurses on their team at times to accompany the primary nurse home visitor for peer consultation. This helps the client to understand that there is a team of nurse home visitors available and that this second nurse home visitor could fill in if needed. This may reduce client attrition if the first nurse is on leave or leaves the program. Other team members, such as a social worker or mental health specialist, may also accompany nurses on visits as part of the plan of care.

The addition of group activities to enhance the program is allowed, but cannot take the place of the individual visits and cannot be counted as visits. It is expected that clients will have their own individual visits with their nurse, and not joint visits with other clients.

**Element 6 Client is visited in her home.**

The program is delivered in the client’s home, which is defined as the place where she is currently residing. Her home can be a shelter or a situation in which she is temporarily living with family or friends for the majority of the time (i.e., she sleeps there at least four nights a week). It is understood that there may be times when the client’s living situation or her work/school schedule make it difficult to see the client/child in their home and the visit needs to take place in other settings. But whenever possible, visiting the client and child in their home allows the nurse home visitor a better opportunity to observe, assess and understand the client’s context and challenges.

**Element 7 Client is visited throughout her pregnancy and the first two years of her child’s life in accordance with the current Nurse-Family Partnership Guidelines.**

Prenatal visits occur once a week for the first four weeks, then every other week until the baby is born. Postpartum visits occur weekly for the first six weeks and then every other week until the baby is 21 months. From 21-24 months visits are monthly. To meet the needs of the individual family, the nurse home visitor may adjust the frequency of visits and visit in the evening or on weekends. An expectation that a home visitor is available for regular contact with the family over a long period of time, even if families do not use the home visitor to the maximum level recommended, can be a powerful tool for change.

**EXPECTATIONS OF THE NURSES AND SUPERVISORS**

**Element 8 Nurse home visitors and nurse supervisors are registered professional nurses with a minimum of a Baccalaureate degree in nursing.**

When hiring, it is expected that nurse home visitor and nurse supervisor candidates will be evaluated based on the individual nurses’ background and levels of knowledge, skills and abilities taking into consideration the nurses’ experience and education. The BSN degree is considered to be the standard educational background for entry into public health and provides background for this kind of work. For nurse supervisors, a Master’s degree in nursing is preferred. It is understood that both education and experience are important. Agencies may find it difficult to hire BSN-prepared nurses or may find well prepared nurses that do not have a BSN. In making this decision, agencies need to consider each individual nurses’ qualifications, and as needed, provide additional professional development to meet the expectations of the role. Non-BSN nurses should be encouraged and provided support to complete their BSN. Agencies and supervisors can seek consultation on this issue from their nurse consultant.

**Element 9 Nurse home visitors and nurse supervisors complete core educational sessions required by the Nurse-Family Partnership National Service Office and deliver the intervention with fidelity to the NFP Model.**

It is the policy of Nurse-Family Partnership National Service Office (NFP NSO) that all nurses employed to provide NFP services will attend and participate in all core NFP education sessions in a timely manner, as is defined by NFP NSO policy and the NFP NSO contract. Nurse home visitors and nurse supervisors will deliver the program with fidelity to the model. Fidelity is the extent to which implementing agencies adhere to the model elements when implementing the program. Implementing these components provides a high level of confidence that the outcomes achieved by families who enroll in the program will be comparable to those achieved by families in the three randomized, controlled trials.
APPLICATION OF THE INTERVENTION

Element 10 Nurse home visitors, using professional knowledge, judgment and skill, apply the Nurse-Family Partnership Visit-to-Visit Guidelines, individualizing them to the strengths and challenges of each family and apportioning time across defined program domains. The NFP Visit-to-Visit Guidelines are tools that guide nurse home visitors in the delivery of program content. Nurse home visitors use strength-based approaches to working with families and individualize the guidelines to meet the client’s needs. The domains include:
1) Personal Health (health maintenance practices; nutrition and exercise; substance use; mental health)
2) Environmental Health (home; work; school and neighborhood)
3) Life Course (family planning; education and livelihood)
4) Maternal Role (mothering role; physical care; behavioral and emotional care of child)
5) Friends and Family (personal network relationships; assistance with childcare)
6) Health and Human Services (linking families with needed referrals and services)

Element 11 Nurse home visitors apply the theoretical framework that underpins the program, emphasizing Self-Efficacy, Human Ecology and Attachment theories, through current clinical methods. The underlying theories are the basis for the Nurse-Family Partnership Program. The clinical methods that are taught in the education sessions and promoted in the NFP Visit-to-Visit Guidelines are an expression of these theories. These theories provided the framework that guided the development of the NFP Visit-to-Visit Guidelines, Nurse Home Visitor and Supervisor Competencies, and Nurse-Family Partnership Core Education Sessions. They are a constant thread throughout the model and Nurse-Family Partnership clinical nursing practice.

Element 12 A full-time nurse home visitor carries a caseload of no more than 25 active clients.
Full time is considered a 40-hour work week. Agencies may have a different definition for full time, and should pro-rate the nurse’s caseload accordingly. At least half-time employment (20-hour work week) is necessary in order for nurse home visitors to become proficient in the delivery of the program model. Existing teams that already are in place but do not meet these expectations should consult with their nurse consultant.
Active clients are those who are receiving visits in accordance with the NFP Visit-to-Visit Guidelines and the plan established by the client and the nurse. In practice, clients are considered participating if they are having regular visits. Agencies can establish their own policies regarding a timeframe for discharging missing clients. It is expected that supervisors will work with their nurse home visitors to monitor caseloads and utilize the program to serve the number of families they are funded to serve. The contract between the NFP National Service Office and the Implementing Agency states that the Agency will:
1) Ensure enrollment of 23 to 25 first-time mothers per full-time nurse home visitor within nine months of beginning implementation; and
2) Ensure that each nurse home visitor carries a caseload of not more than 25 active families; and
3) Maintain the appropriate visit schedule.

REFLECTION AND CLINICAL SUPERVISION

Element 13 A full-time nurse supervisor provides supervision to no more than eight individual nurse home visitors.
Full time is considered a 40-hour work week. It is expected that a full-time nurse supervisor can supervise up to eight individual nurse home visitors, given the expectation for one-to-one supervision, program development, referral management and other administrative tasks. It also is assumed that other administrative tasks may be included in time dedicated to NFP, including the supervision of some additional administrative, clerical and interpreter staff. Refer to the sample supervisor job description found in the Implementing Agency Orientation Packet. The minimum time for a nurse supervisor is 20 hours a week with a team of no more than four individual nurse
home visitors. Though NFP discourages smaller teams, even teams with less than four nurse home visitors still require at least a half-time supervisor. Existing teams that are already in place but do not meet these expectations should consult with their nurse consultant.

**Element 14** Nurse supervisors provide nurse home visitors clinical supervision with reflection, demonstrate integration of the theories, and facilitate professional development essential to the nurse home visitor role through specific supervisory activities including one-to-one clinical supervision, case conferences, team meetings and field supervision.

To ensure that nurse home visitors are clinically competent and supported to implement the Nurse-Family Partnership Program, nurse supervisors provide clinical supervision with reflection through specific supervisory activities. These activities include:

1. **One-to-one clinical supervision**: A meeting between a nurse and supervisor in one-to-one weekly, one-hour sessions for the purpose of reflecting on a nurse’s work including management of her caseload and quality assurance. Supervisors use the principles of reflection as outlined in NFP supervisor training. Supervisors who carry a caseload will make arrangements for clinical supervision with reflection from a qualified person other than the nurse home visitor he/she supervises.

2. **Case conferences**: Meetings with the team dedicated to joint review of cases. Efforts to Outcomes (ETO) data reports and charts using reflection for the purposes of solution finding, problem solving and professional growth. Experts from other disciplines are invited to participate when such input would be helpful. Case conferences reinforce the reflective process. Case conferences are to be held twice a month for 1 ½ to 2 hours per case conference.

3. **Team meetings**: Meetings held for administrative purposes, to discuss program implementation issues, and team building twice a month for at least an hour or as needed for team meetings. Team meetings and case conferences alternate weekly so there is one meeting of the team every week.

4. **Field supervision**: Joint home visits with supervisor and nurse. Every four months the supervisor makes a visit with each nurse to at least one client and additional visits on an as needed basis at the nurse’s request or if the supervisor has concerns. At a minimum, time spent should be 2 – 3 hours per nurse every four months. Some supervisors prefer to spend a full day with nurses, enabling them to observe comprehensively the nurse’s typical day as well as her home visit, time and case management skills and charting. After joint home visits with a supervisor and nurse, a Visit Implementation Scale is completed and discussed.

**PROGRAM MONITORING AND USE OF DATA**

**Element 15** Nurse home visitors and nurse supervisors collect data as specified by the Nurse-Family Partnership National Service Office and use NFP reports to guide their practice, assess and guide program implementation, inform clinical supervision, enhance program quality and demonstrate program fidelity.

Data are collected, entered into the ETO software and subsequently used to address practice. Data are utilized to guide improvements in program implementation and demonstrate fidelity. The ETO reports are tools with which nurse home visitors and supervisors assess and manage areas where system, organizational, or operational changes are needed in order to enhance the overall quality of program operations and inform reflective supervision of each nurse. It is expected that both supervisors and nurse home visitors will review and utilize their data.

**AGENCY**

**Element 16** A Nurse-Family Partnership Implementing Agency is located in and operated by an organization known in the community for being a successful provider of prevention services to low-income families.

An Implementing Agency is an organization committed to providing internal and external advocacy and support for the NFP program. This agency also will provide visible leadership and passion for
the program in their community and assure that NFP staff members are provided with all tools necessary to assure program fidelity.

**Element 17** A Nurse-Family Partnership Implementing Agency convenes a long-term Community Advisory Board that meets at least quarterly to promote a community support system for the program and to promote program quality and sustainability.

A Community Advisory Board is a group of committed individuals/organizations who share a passion for the NFP program and whose expertise can advise, support and sustain the program over time. The agency builds and maintains community partnerships that support implementation and provide resources. If an agency cannot create a group specifically dedicated to the Nurse-Family Partnership program, and larger groups are in place that have a similar mission and role dedicated to providing services to low-income mothers, children and families, it is acceptable to participate in these groups in place of a NFP dedicated group. It is essential that issues important to the implementation and sustainability of the NFP program are brought forward and addressed as needed.

**Element 18** Adequate support and structure shall be in place to support nurse home visitors and nurse supervisors to implement the program and to assure that data are accurately entered into the database in a timely manner.

Support includes the necessary infrastructure to support and implement the program. This includes the necessary physical space, desks, computers, cell phones, filing cabinets and other infrastructure to carry out the program. Further, this includes employing a person primarily responsible for key administrative support tasks for NFP staff, as well as entering data and maintaining accuracy of ETO reports. This resource is critical to ensuring administrative support and accuracy of data entry, allowing nurse home visitors time to focus on their primary role of providing services to clients. NFP Implementing Agencies shall employ at least one 0.5 FTE general administrative staff member per 100 clients to support the nurse home visitors and nurse supervisors and to accurately enter data into the Nurse-Family Partnership National Service Office ETO database on a timely basis.

**References**


EXHIBIT "B"
(COMPENSATION)

I. **Budget and Source of Funding**: The source of funding for this contract, in an amount not to exceed $28,000, is the Home Visiting Service Account (HVSA) grant.

II. **Budget, Rates, and/or Allowable Costs**

<table>
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<tr>
<th>Activity/Line Item</th>
<th>Invoice Documentation Required</th>
<th>Budget</th>
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<tr>
<td>NFP Nurse Supervisor @ $75/hr consultation fee</td>
<td>Timesheets</td>
<td>$18,400</td>
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<tr>
<td>40% of Annual Contract with NFP National Service Office</td>
<td>Copy of NFP Invoice and General Ledger Detail</td>
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<td>25% Indirect Cost</td>
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<td><strong>TOTAL</strong></td>
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III. **Invoicing**

1. The Contractor shall submit itemized invoices on a monthly basis in a format approved by the County. Monthly/quarterly invoices must be submitted by the 10th of the month following the month of service.

2. The Contractor shall submit a copy of the NFP National Service office Invoice for Annual Site Support with a request for payment of 40% of the cost.

3. In the event there is a conflict within this agreement in regards to the payment of invoices, Exhibit B controls this section.

4. The Contractor shall submit invoices to (include contract/PO #):

   Attention: Business Office  
   Whatcom County Health Department  
   509 Girard St.  
   Bellingham, WA 98225  

   Via email at HL-BusinessOffice@co.whatcom.wa.us

5. Payment by the County will be considered timely if it is made within 30 days of the receipt and acceptance of billing information from Contractor. The County may withhold payment of an invoice if the Contractor submits it more than 30 days after the expiration of this contract.

6. Invoices must include the following statement, with an authorized signature and date:

   I certify that the materials have been furnished, the services rendered, or the labor performed as described on this invoice.

7. **Duplication of Billed Costs or Payments for Service**: The Contractor shall not bill the County for services performed or provided under this contract, and the County shall not pay the Contractor, if the Contractor has been or will be paid by any other source, including grants, for those costs used to
perform or provide the services in this contract. The Contractor is responsible for any audit exceptions or disallowed amounts paid as a result of this contract.
EXHIBIT "C"

(SKAGIT COUNTY CERTIFICATE OF INSURANCE)
# Certificate of Liability Insurance

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER.
THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY BELOW.

<table>
<thead>
<tr>
<th>INSURED MEMBER:</th>
<th>Coverage Afforded by the</th>
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<tbody>
<tr>
<td>Skagit County, Washington</td>
<td>Washington Counties Risk Pool</td>
</tr>
<tr>
<td>Attn: Jessica Neil Hoyson, Risk Manager</td>
<td>2558 R.W. Johnson Road SW, Suite 106</td>
</tr>
<tr>
<td>1800 Continental, Suite 200</td>
<td>Tumwater, Washington 98512-6103</td>
</tr>
<tr>
<td>Mount Vernon, WA 98273</td>
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THIS IS TO CERTIFY THAT THE LIABILITY POLICY LISTED BELOW HAS BEEN ISSUED TO THE PARTICIPATING MEMBER NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE POLICY DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICY.

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<tr>
<td>LIMITS OF LIABILITY EACH OCCURRENCE</td>
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<td>Automobile Liability</td>
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<tr>
<td>CANCELLATION</td>
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<td>BEFORE THE EXPIRATION DATE THEREOF, THE ISSUER WILL</td>
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<td>ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE</td>
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<td>CERTIFICATE HOLDER, BUT FAILURE TO MAIL SUCH NOTICE</td>
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<td>SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND</td>
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<td>UPON THE ISSUER, OR ITS AGENTS OR REPRESENTATIVES.</td>
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<tr>
<th>Proof of Liability Insurance</th>
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<tbody>
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<td>During the policy period 10/01/14-09/30/15</td>
</tr>
</tbody>
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<thead>
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<th>CERTIFICATE HOLDER:</th>
<th>ISSUE DATE:</th>
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<tbody>
<tr>
<td>Skagit County</td>
<td>October 27, 2014</td>
</tr>
</tbody>
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Authorized Representative

Claims Assistant
TITLE OF DOCUMENT: Approval to Purchase Fleet Vehicle Parts

ATTACHMENTS: Memos from Finance and Public Works

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.)

Public Works is requesting approval to purchase fleet vehicle parts for the remainder of 2015 through August 2016 using the Washington State Contract #01809. The vendors are AutoZone, General Parts, Genuine Auto Parts (dba NAPA), Parts Wholesalers, and Seattle Automotive Distributing. Fleet vehicle parts are purchased on an as needed basis and the total expenditure for fleet vehicle parts will not exceed $80,000.00. This is a regularly budgeted expenditure.
DATE: July 14, 2015
TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Approval to Purchase Fleet Vehicle Parts

- **Background & Purpose**
Public Works is requesting approval to use the Washington State Contract to purchase their annual supply of miscellaneous auto and truck parts. These items are used for the maintenance and repair of smaller county vehicles and equipment.

The State Contract has been awarded to Auto Zone Stores, General Parts, Genuine Parts Company (dba NAPA), Parts Wholesalers, and Seattle Automotive Distributing. The local vendors are:

- NAPA - Bellingham Auto Parts (Bellingham), Bridgeview Auto Parts (Ferndale)
- Autozone (Bellingham)
- Seattle Automotive (Bellingham)

Consideration will be given as to the availability, total cost and performance of the parts, and vendor location.

Parts are purchased on an as needed basis and expenditures will not exceed $80,000.00 annually.

- **Funding**
This is a regularly budgeted item and funds exist in the current budget. I concur with this recommendation.

\[Marianne Caldwell\]
\[for Brad Bennett\]
AS Finance Manager

Approved as recommended:

________________________________________
County Executive

Date of Council Action __________
MEMORANDUM

To: Brad Bennett, AS Finance Manager

Through: Jon Hutchings, Public Works Director

From: Eric L. Schlehuber, PW Equipment Services Manager

Date: July 10, 2015

Re: Washington State Bid Contract 01809 (Fleet Vehicle Parts, Just-In-Time)

- Requested Action
I am requesting Executive and Council approval to purchase the following material as needed from The Washington State Bid Procurement List during the period of 2014 through August 9, 2016 (current state contract term is for the period of 08/10/2009 through 08/09/2016):

<table>
<thead>
<tr>
<th>MATERIAL</th>
<th>STATE CONTRACT NO.</th>
<th>EXPIRATION DATE</th>
<th>NOT TO EXCEED ANNUAL EXPENDITURE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fleet Vehicle Parts, Just-In-Time</td>
<td>01809</td>
<td>August 9, 2016</td>
<td>$80,000.00</td>
</tr>
</tbody>
</table>

This state contract has been awarded to multiple vendors: AutoZone Stores, General Parts, Genuine Parts Co. (dba NAPA), Parts Wholesalers, and Seattle Automotive Distributing. Historically we have used the following local vendors for: 1) CarQuest Auto Parts (Hawley’s Auto Parts in Ferndale and S&H Auto Parts in Lynden); 2) Genuine Auto Parts, dba NAPA (NAPA Auto Parts in Lynden and Bridgeview Auto in Ferndale); and 3) Seattle Automotive Distributing in Bellingham. Consideration will be given as to the availability of parts, total cost of the parts, performance of the parts, and the location of the vendor.

- Background and Purpose
The Equipment Services Division of the Public Works Department uses these materials regularly for annual maintenance on county vehicles and equipment. This agreement is for the purpose of providing automotive parts throughout the year to be used on county vehicles and equipment as needed.

- Funding Amount and Source
These are regularly budgeted expenditures for automotive parts, which are used on an annual basis as needed and have been budgeted during the 2015-2016 Budget process in the Equipment Rental and Revolving Capital Equipment Fund. Expenditures for 2012 were $64,622, in 2013 were $50,730, and in 2014 were $51,029.

- Recommended Action
Please approve this purchase and forward to the Executive and the Whatcom County Council for approval at the July 21, 2015 Whatcom County Council Meeting.

Please contact Eric L. Schlehuber at extension 50607 if you have any questions or concerns.

Attachment
<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td>Nan Kallmuk</td>
<td>7/9/15</td>
<td></td>
<td>7/21/15</td>
<td>Finance &amp; Admin</td>
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<td>Svs Committee and</td>
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<td>Council Agenda</td>
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<tr>
<td>Division Head</td>
<td>Karen S. Goens</td>
<td>7/10/15</td>
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<td>Dept. Head:</td>
<td></td>
<td>07/10/15</td>
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<td>Prosecutor:</td>
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<td>Purchasing/Budget:</td>
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<td>Executive:</td>
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<td>7/13/15</td>
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</tbody>
</table>

**TITLE OF DOCUMENT:**
Collective Bargaining Agreement between Whatcom County and Teamsters Local Union 231 Corrections Deputies & Sergeants Bargaining Unit

**ATTACHMENTS:**
July 21, 2015 – December 31, 2016 Collective Bargaining Agreement between Whatcom County and Teamsters Local Union 231 Corrections Deputies & Sergeants Bargaining Unit

**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.)

Request approval of July 21, 2015 through December 31, 2016 Collective Bargaining Agreement between Whatcom County and Teamsters Local Union 231 Corrections Deputies & Sergeants Bargaining Unit.

**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: Councilmembers Barbara Brenner, Rud Browne, Barry Buchanan, Pete Kreimeyer, Ken Mann, Satpal Sidhu and Carl Weimer

CC: Jack Louws, County Executive

FROM: Nan Kallunki, HR Associate Manager

DATE: July 21, 2015

SUBJECT: Teamsters Local 231 - Corrections Deputies and Sergeants 2015-2016

The County and Union bargaining teams met regularly throughout the latter part of 2014 and into 2015 to negotiate a successor agreement to the December 10, 2013 – December 31, 2014 collective bargaining agreement for employees represented by Teamsters Local 231 representing Corrections Deputies and Sergeants. On July 1, 2015 the County requested its proposal be put before the membership. The proposal was ratified by Guild members on July 5, 2015.

The successor collective bargaining agreement, which currently represents 66 Corrections Deputies and Sergeants, is effective July 21, 2015 through December 31, 2016.

The County negotiating team is pleased to have reached an agreement within budget authority consistent with the wage and medical benefit package provided for other bargaining unit employees.

Below is a summary of changes included in the new agreement:

<table>
<thead>
<tr>
<th>Contract Terms</th>
<th>Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARTICLE 3 – WORK SCHEDULE</td>
<td><strong>Return from Temporary Assignment.</strong> Deputies temporarily assigned to different facility waiting for deputy ordered in will return to original work assignment when ordered in deputy arrives.</td>
</tr>
<tr>
<td></td>
<td><strong>Shift Bidding. Rules.</strong> Rules regarding the bidding process will be established by mutual agreement between the County and the Union no later than May 31st of each year.</td>
</tr>
</tbody>
</table>
| **ARTICLE 6 – HEALTH AND WELFARE** | **County Contribution.** Effective with 2015 and 2016 coverage, the County shall pay a contribution cap amount of up to $1,089.50 per month for each eligible employee to fund a medical Plan. 

**Contributory Cap Plan** For 2015 and 2016 employees may elect to buy-up to the Contributory Cap Plan via authorized monthly payroll deduction of $84.90.

**Cap Plan 2000 – Non-Qualified High Deductible** For 2015 and 2016 Employees may elect a Non-Qualified High Deductible Plan with no payroll deduction. *This is the default medical plan.* |
<table>
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<tbody>
<tr>
<td><strong>ARTICLE 14 – MISCELLANEOUS</strong></td>
<td>Added <strong>Labor Management Committee</strong> section. The purpose of this committee is to examine issues throughout the year rather than through the collective bargaining process.</td>
</tr>
</tbody>
</table>
| **ARTICLE 19 – SALARY SCHEDULE** | Effective the first full pay period following ratification by the bargaining unit. All ranges of the 2014 hourly matrix shall be increased by 5%  

(Union ratified July 5, wages effective July 5, 2015.) |
| **NUMBER OF UNIT MEMBERS** | 66 |
WHATCOM COUNTY CONTRACT INFORMATION SHEET

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Administrative Services – Human Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Administrator:</td>
<td>Nan Kallunki</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Collective Bargaining Agreement between Whatcom County and Teamsters Local Union 231 Representing Corrections Deputies &amp; Sergeants</td>
</tr>
</tbody>
</table>

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

Is this a grant agreement? Yes ☑ No ☐ If yes, grantor agency contract number(s) ____________________________ CFDA # ____________________________

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

Contract Amount: (sum of orig contract amt and any prior amendments) $__________________________

This Amendment Amount: $__________________________

Total Amended Amount: $__________________________

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

Term of Contract: July 21, 2015 Expiration Date: December 31, 2016

Contract Routing Steps & Signoff: [sign or initial] (indicate date transmitted)
1. Prepared by Nan Kallunki __________ Date __________ Format ____________________________
2. Attorney reviewed Daniel T. Gibbons __________ Date __________ Format ____________________________
3. AS Finance reviewed __________________________ Date __________ Format ____________________________
4. IT reviewed if IT related __________________________ Date __________ Format ____________________________
5. Corrections made __________________________ Date __________ Format ____________________________
6. Attorney signoff Daniel T. Gibbons __________ Date __________ Format ____________________________
7. Contractor signed __________________________ Date __________ Format ____________________________
8. Submitted to Exec Office __________ Date __________ Format ____________________________
9. Council approved (if necessary) __________________________ Date __________ Format ____________________________
10. Executive signed __________________________ Date __________ Format ____________________________
11. Contractor Original Returned to dept. __________________________ Date __________ Format ____________________________
12. County Original to Council __________________________ Date __________ Format ____________________________

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.

Last Revised 1/19/12
COLLECTIVE BARGAINING AGREEMENT

By and Between

WHATCOM COUNTY, WASHINGTON

AND

GENERAL TEAMSTERS’ LOCAL UNION NO. 231 CORRECTIONS DEPUTIES & SERGEANTS BARGAINING UNIT

July 21, 2015 - DECEMBER 31, 2016
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>GENERAL PURPOSES</td>
<td>8</td>
</tr>
<tr>
<td>ARTICLE 1 – UNION RECOGNITION AND SECURITY</td>
<td>8</td>
</tr>
<tr>
<td>Exclusions</td>
<td>8</td>
</tr>
<tr>
<td>Members in Good Standing</td>
<td>8</td>
</tr>
<tr>
<td>Non-Discrimination Clause</td>
<td>9</td>
</tr>
<tr>
<td>New Hire Notice to Union</td>
<td>9</td>
</tr>
<tr>
<td>Bargaining Unit Work</td>
<td>9</td>
</tr>
<tr>
<td>Volunteers</td>
<td>9</td>
</tr>
<tr>
<td>Authorized Representatives</td>
<td>9</td>
</tr>
<tr>
<td>Civil Service Rules</td>
<td>9</td>
</tr>
<tr>
<td>Promotional Exams</td>
<td>9</td>
</tr>
<tr>
<td>ARTICLE 2 – DISCIPLINE/INTERNAL INVESTIGATIONS</td>
<td>10</td>
</tr>
<tr>
<td>Types of Discipline</td>
<td>10</td>
</tr>
<tr>
<td>Discharge or Suspension</td>
<td>10</td>
</tr>
<tr>
<td>Probationary Employees</td>
<td>10</td>
</tr>
<tr>
<td>Progressive Discipline</td>
<td>10</td>
</tr>
<tr>
<td>Records Removal</td>
<td>10</td>
</tr>
<tr>
<td>Supervisor Notes</td>
<td>10</td>
</tr>
<tr>
<td>Counseling</td>
<td>10</td>
</tr>
<tr>
<td>Performance Evaluations</td>
<td>10</td>
</tr>
<tr>
<td>Disputes</td>
<td>10</td>
</tr>
<tr>
<td>Investigative Procedures</td>
<td>11</td>
</tr>
<tr>
<td>Due Process</td>
<td>11</td>
</tr>
<tr>
<td>Constitutional Rights or Privileges</td>
<td>11</td>
</tr>
<tr>
<td>Interview</td>
<td>11</td>
</tr>
<tr>
<td>Interview Advisement</td>
<td>11</td>
</tr>
<tr>
<td>Length of Interview</td>
<td>11</td>
</tr>
<tr>
<td>Conduct</td>
<td>11</td>
</tr>
<tr>
<td>No Inducements Allowed</td>
<td>12</td>
</tr>
<tr>
<td>Recordings</td>
<td>12</td>
</tr>
<tr>
<td>Recording Permission Not Required</td>
<td>12</td>
</tr>
<tr>
<td>Class II Investigation Interviews</td>
<td>12</td>
</tr>
<tr>
<td>Recording Device</td>
<td>12</td>
</tr>
<tr>
<td>Non-employee Witnesses</td>
<td>12</td>
</tr>
<tr>
<td>Union Representation</td>
<td>12</td>
</tr>
<tr>
<td>Length of Investigation and Access to Investigatory Files</td>
<td>12</td>
</tr>
<tr>
<td>Extension of Timeline</td>
<td>13</td>
</tr>
<tr>
<td>Suspension of Timeline</td>
<td>13</td>
</tr>
<tr>
<td>Determination of Discipline</td>
<td>13</td>
</tr>
<tr>
<td>Media Access</td>
<td>13</td>
</tr>
</tbody>
</table>
• Access to Investigatory File ................................................................................. 13
Personnel File ......................................................................................................... 14
Advance Notice of Public Disclosure Request ..................................................... 14

ARTICLE 3 – WORK SCHEDULE ............................................................................. 14
Shifts ......................................................................................................................... 14
• Alternative Shift Schedules ................................................................................. 14
• Work Week ........................................................................................................... 14
• Swing Shift Premium ............................................................................................ 15
• 12-Hour Shift ........................................................................................................ 15
  • Work Breaks ....................................................................................................... 15
Staffing Imperatives ................................................................................................. 15
• Shift Bidding ......................................................................................................... 15
• Vacant Bid ........................................................................................................... 16
• Probationary Deputies ......................................................................................... 16
• Shift Exchanges .................................................................................................... 16
• Shift Change ....................................................................................................... 17
Overtime Definitions ................................................................................................ 17
• Minimum Overtime Between Shifts .................................................................... 17
• Hold-Over Overtime .............................................................................................. 17
• Minimum Overtime on Regular Days Off ............................................................ 17
• Minimum Overtime During Vacation .................................................................. 18
  • Vacation Overtime Authorization .................................................................... 18
  • Nonrefundable Loss ............................................................................................ 18
Equal Opportunity for Overtime ............................................................................ 18
• Overtime Selection List ....................................................................................... 18
• Overtime Posting ................................................................................................ 18
• Voluntary Overtime Bidding ............................................................................... 18
  • Voluntary Overtime – 12-hour Shifts .................................................................. 19
• Voluntary Non-bid Overtime ............................................................................... 19
• Mandatory Overtime ........................................................................................... 19
  • Multiple Shifts .................................................................................................. 19
  • Order In Criteria ................................................................................................ 19
• Extended Overtime .............................................................................................. 19
Extended Shifts ......................................................................................................... 19
Compensatory Time ................................................................................................. 19

ARTICLE 4 – HOLIDAYS ........................................................................................ 20
Eligibility Criteria .................................................................................................... 20
  • Eligibility if on Payroll on 6/15/94 .................................................................. 20
Accrual and Bidding of Holidays .......................................................................... 20
• Specialized Units ................................................................................................ 20
• 12-Hour Shift ....................................................................................................... 20
Pay on Designated Holidays .................................................................................. 20
Personal Holiday ...................................................................................................... 21
  • Personal Holiday Scheduling ........................................................................... 21
ARTICLE 5 – VACATION

Vacation Accrual.......................................................... 21
  • Vacation Accrual Rate .................................................. 21
  • Scheduling ................................................................... 21
  • Eligibility Criteria ......................................................... 21
    • Eligibility if on Payroll on 6/15/94 .............................. 22
    • Monthly Vacation Accrual Anniversary Date ................ 22
      • Hired Prior to June 15, 1994 ................................. 22
Termination Cashout ....................................................... 22
Vacation Bidding ............................................................. 22
  • Bidding Limits ............................................................. 22
  • First Selection ............................................................. 22
  • Second and Subsequent Selections ................................. 23
  • Definition .................................................................... 23
  • Probationary Deputies ............................................... 23
  • Vacation Bid Weeks Trading ....................................... 23
Vacation Bidding Limits .................................................. 23
Deputies Working Less Than 1.0 FTE ................................. 23
Vacation Carryover ........................................................ 23
Floaters ......................................................................... 23

ARTICLE – HEALTH & WELFARE ........................................... 24
Eligibility Criteria ............................................................ 24
  • Eligibility if on Payroll on 6/15/94 .............................. 24
  • Change or Modification of Plans ................................. 24
Health & Welfare .............................................................. 24
  • Medical ..................................................................... 24
  • Dental ...................................................................... 24
  • Vision Care ............................................................... 24
Life Insurance .................................................................. 24
Medical Premiums ............................................................ 24
  • County Contribution .................................................. 24
    • Medical .................................................................. 24
    • Dental, Vision and Life Insurance ............................... 25
  • Employee Medical Contribution ................................. 25
Trust Terms ..................................................................... 25
Flex 125 Plan .................................................................. 25
Medical Coverage Dispute .............................................. 25
Medical Schedule of Benefits ........................................ 25
Medical Advisory Committee ........................................ 25
Medical Plan Options ..................................................... 25
  • Qualified Deductible Health Plan (QHDHP) ................. 26
    o New Hires ............................................................... 26
    o Employee HSA Contributions .................................. 26
  • Contributory Cap Plan ................................................ 26
    o Coverage .................................................................. 26
    o Cap 2000 Plan – Non-Qualified High Deductible ....... 26
ARTICLE 7 – SICK LEAVE ................................................................. 27
Sick Leave Usage ................................................................. 27
  • Utilization ...................................................................... 27
Eligibility Criteria and Accrual Rate ........................................... 27
  • Eligibility if on Payroll on 6/15/94 .................................. 27
  • Order of Accrual Usage .................................................. 27
Bonus Days ........................................................................... 27
Termination Cashout .............................................................. 28
  • Notification and Application ......................................... 28
Proof of Illness ..................................................................... 28
Layoff .................................................................................. 28
Accrual Deduction ............................................................... 28
Maternity or Disability Leave .................................................... 28
Notification to Supervisor .......................................................... 28
Sick Leave Sharing .................................................................. 28
On-Duty Assault .................................................................... 28

ARTICLE 8 – FAMILY CARE .......................................................... 29

ARTICLE 9 – JURY DUTY ................................................................. 29

ARTICLE 10 – BEREAVEMENT LEAVE .......................................... 29

ARTICLE 11 – INITIATION FEE AND DUES CHECKOFF ................. 29
Authorization of Deductions ...................................................... 29
Payroll Deduction .................................................................. 29

ARTICLE 12 – WORK ASSIGNMENTS AND NON-WAGE REIMBURSEMENTS AND PAYMENTS .................................................. 30
Specialty Positions .................................................................. 30
Specialty Position Premium .................................................... 30
Clothing, Equipment and Cleaning Allowance .......................... 30
  • Allowance Usage ............................................................ 30
Repair and Replacement ........................................................... 30
Transportation Deputy Assignment ........................................... 30
  • Schooling ...................................................................... 30
  • Pay ........................................................................ 30
  • Qualifications Standards ................................................. 31
  • Lunches ..................................................................... 31
  • Western State Hospital Runs ......................................... 31
Pyramiding of Premiums ......................................................... 31

ARTICLE 13 – PHYSICAL EXAMS ....................................................... 31
New or Rehire Required Exams .................................................. 31
Annual Exam Covered ............................................................. 31
• Ordered Exams .................................................................................. 31

ARTICLE 14 – MISCELLANEOUS .......................................................... 31
Rules of Operation .............................................................................. 31
Labor Management Committee ............................................................. 32

ARTICLE 15 – UNION ACTIVITY .......................................................... 32
Negotiations ...................................................................................... 32
Union Activity ................................................................................... 33
• Shop Steward Training ................................................................... 33

ARTICLE 16 – SEPARABILITY AND SAVINGS ........................................ 33

ARTICLE 17 – LONGEVITY ................................................................. 33

ARTICLE 18 – GENERAL CONDITIONS ............................................. 33
Range Placement ............................................................................... 33
Reclassification .................................................................................. 33
Step Placement ................................................................................. 33
• Sheriff's Discretion on Step Placement ......................................... 34
Step Advancement .............................................................................. 34
Promotion Anniversary Date ............................................................... 33
Personnel Records Access ................................................................. 34
Performance Evaluations .................................................................. 34
Training .............................................................................................. 34
Work in Higher Classification ............................................................. 34
• Acting Sergeant ............................................................................. 34
Part-Time and Temporary Deputies .................................................... 34
Shots .................................................................................................. 34
Traveling Expenses ............................................................................ 35
Subcontracting ................................................................................... 35
Electronic Funds Transfer ................................................................. 35
Ability to Cross Border ..................................................................... 35

ARTICLE 19 – SALARY SCHEDULE ..................................................... 35

ARTICLE 20 – GRIEVANCE PROCEDURE AND ARBITRATION .......... 35
Grievance Definition ......................................................................... 35
• Initial Filing ................................................................................... 35
• Union Notification ......................................................................... 36
Arbitration .......................................................................................... 36
• Hearing Commencement ............................................................... 36
• Arbitrator's Fees .......................................................................... 36
• Arbitration Venue ......................................................................... 36
Time Limitations ............................................................................... 36
No Lockout, Strike or Slow Down .................................................... 36
Election of Remedies ....................................................................... 36
Past Practice ...................................................................................... 37
ARTICLE 21 – SENIORITY ................................................................................................................. 37

ARTICLE 22 – MANAGEMENT RIGHTS ............................................................................... 37

ARTICLE 23 – INDEMNITY AND HOLD HARMLESS AGREEMENT ................................. 37

ARTICLE 24 – TERMINATION CLAUSE ................................................................................ 38
Duration ................................................................................................................................. 38
Subsequent Agreements ......................................................................................................... 38

ADDENDUM A - POSITION TITLE INDEX ................................................................. 39

ADDENDUM B – MATRICES .............................................................................................. 40

LETTER OF UNDERSTANDING #1 ...................................................................................... 41
Drug-Free Work Place Policy .............................................................................................. 41
Training ................................................................................................................................. 41
Grooming .............................................................................................................................. 41
Non-Firearms Qualified ....................................................................................................... 41
Wage Tables .......................................................................................................................... 41

LETTER OF UNDERSTANDING #2 – Temporaries with Benefits .................................. 43

ADDENDUM C – ADVICE OF ADMINISTRATIVE INVESTIGATION ......................... 45

ADDENDUM D – ADVICE OF ADMINISTRATIVE INTERVIEW ....................................... 47
AGREEMENT
By and Between
WHATCOM COUNTY, WASHINGTON

AND
GENERAL TEAMSTERS’ LOCAL UNION NO. 231
CORRECTIONS DEPUTIES & SERGEANTS BARGAINING UNIT


THIS AGREEMENT, MADE AND ENTERED INTO THIS 21st day of July 2015, by and between WHATCOM COUNTY, WASHINGTON, hereinafter referred to as the County, and GENERAL TEAMSTERS’ LOCAL UNION NO. 231, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union.

GENERAL PURPOSES

The County and the Union do hereby reach agreement for the purpose of enhancing the employer-employee relationship and to promote service to the public and the general efficiency, morale and security in the Sheriff’s Office.

ARTICLE 1 - UNION RECOGNITION AND SECURITY

1.01 Exclusions. The County recognizes the Union as the sole and exclusive representative for the purpose of collective bargaining for the positions of the Sheriff’s Office listed in the attached Addendum A. Excluded from the collective bargaining unit are all other employees of the Sheriff’s Office and full-time temporary help employed for periods of up to four (4) months in a calendar year. Deputies working not more than sixty-nine (69) hours per calendar month are also excluded.

1.02 Members in Good Standing. It shall be a condition of employment that all Corrections Deputies of the County covered by this Agreement who are members of the Union in good standing on the effective date of this Agreement shall remain members in good standing and those who are not members on the effective date of this Agreement shall on the 31st day following the effective date of this Agreement become and remain members in good standing in the Union. It shall also be a condition of employment that all Corrections Deputies covered by this Agreement hired on or after its effective date shall on the 31st day following the beginning of such employment, become and remain members in good standing in the Union, PROVIDED THAT, if a public employee is a member of a church or religious body whose bona fide religious tenets or teaching forbid said employee to become a member of a labor union, such public employee shall pay an amount of money equivalent to the regular union dues and initiation fee of the Union to a non-religious charity or to another charitable organization mutually agreed upon by the deputy and the Union. The deputy shall furnish written proof to the Union that such payment has been made. If the deputy and the Union do not reach an agreement on the non-religious charity to whom the Union dues and initiation fees are to be paid, the Public Employment Relations Commission shall designate the charitable organization.
1.03 Non-Discrimination Clause. No Deputy shall be discharged, suspended or discriminated against for upholding Union principles and any deputy working under instruction of the Union or who serves on a committee may do so without losing their position for such activity. There shall be no discrimination against any individual deputy of the County or member of the labor organization with whom the County has a bona fide collective bargaining agreement with respect to the hire, tenure, compensation or other terms and conditions of employment because of Union membership or as required by law, except where such constitutes a bona fide occupational qualification.

1.04 New Hire Notice to Union. The Union shall be notified within thirty-one (31) calendar days of new hires. Notification shall be in writing and shall include the deputy's name, social security number, address, date of hire, classification, range and step.

1.05 Bargaining Unit Work. Members of the bargaining unit shall perform all work of the bargaining unit, provided that Sheriff's Office unrepresented employees may perform bargaining unit work on occasion.

1.05a Volunteers. The use of properly trained volunteers is not prohibited by this Agreement so long as bargaining unit deputies are not supplanted. The Union may review the volunteer program regarding compliance with the foregoing and should a dispute develop, it shall be subject to Article 20 (Grievance Procedure) for resolution.

1.06 Authorized Representatives. All collective bargaining with respect to wages, hours and other working conditions of employment shall be conducted by authorized representatives of the Union and the County. It is recognized between the parties that this Agreement covers the Corrections Deputies of the Sheriff's Office for wages, working hours, schedules, benefits, and general working conditions only.

1.07 Civil Service Rules. Except where matters are covered by the express provisions of this Agreement, bargaining unit employees are subject to the rules of the Whatcom County Civil Service Commission. Any alleged violation of contractual provisions, which may also be covered by Civil Service Rules, may be adjusted either through the Civil Service appeals process or through the grievance procedure of this Agreement; provided, the filing of a Civil Service appeal, either before or after the filing of a grievance, shall constitute an election of remedies and a waiver of the employee's right to pursue the grievance or the Union's right to request the County to arbitrate the grievance. Nothing in this section shall be construed as a waiver of any right the Union may have to require the County to engage in collective bargaining on any mandatory subject of bargaining.

1.07a Promotional Exams. Matters pertaining to promotional exams are covered by the Civil Service Rules and Regulations.
ARTICLE 2 – DISCIPLINE/INTERNAL INVESTIGATIONS

2.01 Types of Discipline. Discipline is defined to include verbal reprimand, written reprimand, disciplinary transfers, suspension, demotion (loss of rank) and termination.

2.02 Discharge or Suspension. No deputy will be discharged or suspended except for just cause.

2.02a Probationary Employees. The provisions of this article shall not apply to newly hired employees serving a probationary period. Probationary employees may be disciplined or discharged without any recourse under this Agreement.

2.03 Progressive Discipline. Discipline shall be progressive in nature for similar or substantially similar violations. In some instances, based upon the nature of the offense, discipline need not be progressive. Discipline shall not be used for purposes of progressive discipline after the maximum period as set out in the chart below.

<table>
<thead>
<tr>
<th>Type of Discipline</th>
<th>Maximum Period</th>
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<tbody>
<tr>
<td>Verbal Reprimand (Recorded to the employee’s file)</td>
<td>2 years and no reoccurrence of similar misconduct</td>
</tr>
<tr>
<td>Written Reprimand</td>
<td>3 years and no reoccurrence of similar misconduct</td>
</tr>
<tr>
<td>Suspension (5 days or under), Disciplinary Transfer</td>
<td>5 years and no reoccurrence of similar misconduct</td>
</tr>
<tr>
<td>Suspension (over 5 days) or Demotion</td>
<td>7 years and no reoccurrence of similar misconduct</td>
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2.03a Records Removal. Pursuant to the chart above, records of discipline removed from the employee’s Sheriff’s Office personnel file shall be maintained in the Office of Professional Standards and shall not be divulged or released except as required by law or upon authorization from the Prosecuting Attorney.

2.04 Supervisor Notes. Supervisor notes and log entries in and of themselves are not considered discipline.

2.05 Counseling. Counseling shall not be considered discipline.

2.06 Performance Evaluations. A performance evaluation shall not be considered discipline.

2.06a Disputes. An employee who receives a written performance evaluation with an overall rating below “meets job requirements” may write rebuttals or responses to their performance evaluations but may not grieve them.
2.07 Investigative Procedures. Employees whose conduct may be subject to
discipline shall be afforded, at a minimum, the rights established by these procedures.
This section shall not apply to any routine, supervisory contact with an employee for the
purpose of counseling, instruction, training or delivering a performance evaluation.

2.07a Due Process. Employees shall be afforded due process of law,
which includes the right to be informed in writing (using Addendum C) of the specifically
alleged acts of misconduct and alleged policy violations within fifteen (15) calendar days
from the date that a supervisor who is at a level outside the bargaining unit was made
aware of the facts or circumstances that could lead to discipline of an employee.
Employees shall be afforded the opportunity to respond to such charges.

2.07b Constitutional Rights or Privileges. When the investigation
reveals the possibility of prosecution for a criminal offense, the employee charged with
or suspected of committing a criminal act shall be afforded the same constitutional
rights, privileges or guarantees enjoyed by any person. This section shall not deprive
the County of the right to pursue the investigation administratively under section 2.07
(Investigative Procedure).

2.07c Interview. The interview of any employee during the course of an
investigation that could lead to disciplinary action as defined in section 2.01 (Types of
Discipline) shall be conducted under the following conditions.

2.07c(1) Interview Advisement. Interviews for employees
subject to investigation shall be at a reasonable hour, preferably at a time when the
employee is on duty, or during the normal waking hours for the employee, with at least
two (2) hours notice. Upon request, the employee will be granted a twenty-four (24)
hour delay, unless the exigency of the investigation requires otherwise prior to the
commencement of any interview pursuant to section 2.07 (Investigative Procedure).
The employee shall be provided Notice using Addendum D which includes the following:

You are about to be questioned as part of an administrative investigation being
conducted by the Whatcom County Sheriff's Office. You are hereby ordered to
fully answer the questions that are put to you that relate to information you
possess and/or your conduct and/or job performance, and to cooperate with this
investigation. You are required to answer questions relating to the performance
of your official duties or fitness for duties. Your failure to answer truthfully and
cooperate with this investigation can be the subject of disciplinary action in and of
itself, including dismissal. The statements you make or evidence gained as a
result of this required cooperation may be used for administrative purposes but
will not be used or introduced into evidence in a criminal proceeding.

2.07c(2) Length of Interview. An interview session shall be for a
reasonable period, taking into consideration the gravity and complexity of the issue
being investigated.

2.07c(3) Conduct. The employee being interviewed and the
interviewer shall not be subjected to verbal abuse.
2.07c(4) No Inducements Allowed. No promise of reward shall be made as an inducement to answer any questions.

2.07c(5) Recordings. Employees shall be given reasonable notice that he/she will be interviewed as part of a Class I or Class II Administrative Investigation and they shall be informed whether or not the interview will be audio recorded. Audio recordings may be transcribed should either the County or Union request such a transcription with the cost of the transcription borne by the requesting party. The subject or witness employee shall have the opportunity to review the transcript, if transcription is requested or, if not transcribed, listen to the recording of their Interview by appointment with the Sheriff or designee. The audio recording shall be available for review by the Union or subject/witness employee for a reasonable time after all issues of the investigation have been resolved. The recording of Administrative Interviews shall not be a matter of “due process” and is ministerial in nature with no penalty for an inadvertent failure of the audio recorder attributable to any party or loss of audio recordings or recordings that didn’t work, etc.

2.07c(5)i Recording Permission Not Required. The investigator does not need to obtain permission from an employee at the time of the interview to audio record and/or otherwise record the Class I or Class II interview but must advise the employee that the interview is being recorded. The County and the Union agree that the Advice of Administrative Interview attached to this Agreement (Addendum D) shall be provided to the subject or witness employees in all Administrative Interviews.

2.07c(5)ii Class II Investigation Interviews. Class II investigations are generally not audio recorded but will be audio recorded at the request of either party. In a Class II interview should one party object to the use of an audio recording then a transcript shall be made and be the only official record. Class II transcription expenses shall be at the expense of the requesting party.

2.07c(5)iii Recording Device. There shall be only one audio recording device used at the interview and all audio recordings shall be the sole responsibility of the County.

2.07c(5)iv Non-employee Witnesses. To the extent possible, the County will record non-employee witness interviews.

2.07c(5)v Union Representation. Any employee is entitled to Union representation in an interview at the employee’s request.

2.07d Length of Investigation and Access to Investigatory File. Disciplinary investigations, including the review and approval of the investigative report(s) by the Sheriff, shall not exceed ninety (90) calendar days. The County shall endeavor to complete the investigation prior to the expiration of ninety (90) days, however, the County reserves the right to extend the investigation timeline in section 2.07d(1) (Extension of Timeline).
Within the ninety (90) calendar day time frame:
1. Notification of investigation shall be made to the employee within fifteen (15) calendar days as outlined in section 2.07a (Due Process).
2. Upon the determination by the Sheriff that the investigation is satisfactorily complete, the employee will be notified in writing of:
   a. Any intent to impose discipline and discipline contemplated;
   b. If discipline is to be imposed, the date and time when a pre-disciplinary hearing will be held;
   c. The Sheriff reserves the right to modify the initial determination as to the extent of discipline contemplated after a pre-disciplinary hearing.

2.07d(1) Extension of Timeline. The length of an investigation may be extended where reasonably necessary by notice to and mutual agreement of the Union. The Union may not unreasonably withhold their agreement to extend the investigatory timeline. A request for extension must include the reason for the request and a reasonable number of days which does not prohibit the County from a reasonable request for additional extensions. Request for extensions shall not apply to notification of the investigation (section 2.07a – Due Process).

2.07d(2) Suspension of Timeline. If an employee is investigated for suspicion of committing a criminal act, the Sheriff may suspend the investigative timeline upon notification of the Union of the criminal investigation. The investigatory timeline may be suspended until a determination is made by the prosecuting authority on the underlying allegations. If the employee is subjected to criminal prosecution, the investigatory timeline may be suspended until adjudication of the allegations is completed. When the investigation is recommenced, the timeline shall start at the same point it was suspended.

2.07e Determination of Discipline. Any discipline to be taken as a result of the investigation shall be announced in writing within fifteen (15) calendar days after completion of the investigation, a copy of which will be served upon the Union.

2.07f Media Access. Without their express consent, employees under investigation shall not be subjected to visits by the press or other news media, nor shall the home address or photograph of the employee be given to the press or other news media unless ordered by the Courts or required by law.

2.07g Access to Investigatory File. When an investigation is concluded by the Sheriff, and where discipline is contemplated by the Sheriff, the employee shall be afforded the opportunity to read the investigatory file, the conclusions reached, and any recommendations made, before official action is taken by the Sheriff. The Union shall be afforded an opportunity to review and copy the file. Upon notice to the Union, the County may withhold from the employee information from, and the identity of, confidential informants and other witnesses which the County does not intend to rely; however such information shall be made available upon request of the Union for review on the same basis as if a public record request would be satisfied at the conclusion of the investigation. If there is discipline issued, and the parties disagree as to the exculpatory nature of the evidence, it will be presented in camera through the grievance
process to the Arbitrator.

2.08 Personnel File. Employee's personnel file(s) shall be open for review by the employee provided that employees shall not have the right to review psychological evaluations, polygraph results, supervisor's notes prepared for the purpose of preparing employee's evaluations, medical records, pre-appointment interview forms or applicant background investigation documents. Employees shall be provided a copy of any material not excluded above that is placed in their personnel file at the time of submission. Employees must acknowledge receipt by signing for their copy. Employees may submit a written response, rebuttal or explanation to be included with any submission. All material, once submitted, remains a part of the permanent personnel file. The personnel file shall be considered the official record of an employee's service. Employees shall be provided a copy of all material in their personnel file, upon request and except as noted above, shall have the right to attach statements in rebuttal or explanation.

2.09 Advance Notice of Public Disclosure Request. The County shall provide the employee at least seventy-two (72) hours (three business days) advance notice prior to releasing any personnel record information (including internal investigation files) to be provided through the Sheriff's Office in response to a Public Disclosure request, discovery request, or subpoena duces tecum unless specifically mandated by law.

ARTICLE 3 - WORK SCHEDULE

3.01 Shifts. Standardized shifts shall be established by the Sheriff on an eight- or twelve-hour basis. For eight-hour shifts, all time worked over the eight (8) hours in any one (1) shift or over forty (40) hours in any one (1) work week shall be paid for at the rate of time and one-half the regular rate of pay. For twelve-hour shifts, overtime shall be as herein provided below.

3.01a Alternative Shift Schedules. Shift schedules may be modified by mutual agreement between the County and the Union. Other workweeks, including four (4), 10-hour days, in rotation may be utilized. In those instances, all time worked over the scheduled shift in any one (1) shift or over forty (40) hours in any one (1) work week shall be paid for at the rate of time and one-half the regular rate of pay, except for 12-hour shifts. Provided, however; the County may propose alternative schedules during the term of this agreement. The Sheriff's Office may make an emergency change to an established shift upon notice to the Union. In the event the Sheriff determines it is not practical to safely or efficiently provide services on an alternative shift schedule, the Sheriff may elect to revert to a 5-day/8-hour schedule as circumstances require.

3.01b Work Week. The work week for Fair Labor Standards Act purposes is established as beginning 12:00 a.m. Sunday through 11:59 p.m. the following Saturday.
3.01c Swing Shift Premium. Swing shift premium was eliminated as a separate compensation item in 2007 and was added to the base wage where it shall be increased automatically as future wage increases occur. The Parties agree for comparability purposes, this collective bargaining agreement provides such premium to employees as an element of wages.

3.01d 12-Hour Shift. Deputies employed on a 12-hour shift schedule shall have work hours counted according to the 7(k) exemption under the Fair Labor Standards Act for the purpose of determining when overtime compensation is due. An employee must have in excess of 171 straight-time worked hours in a twenty-eight (28) day work cycle in order to receive overtime pay unless overtime is otherwise specifically required by section 3.04e (Mandatory Overtime). All overtime requires appropriate authorization.

3.01e Work Breaks. Deputies are employed in activities that may preclude the observance of routine meal and/or break periods. It is agreed that statutory meal and break requirements shall be satisfied by deputy observance of meal and breaks as their assignments permit or as assigned during any fully compensated work period. Employees will be allowed one meal break of thirty minutes and break periods of no more than fifteen minutes with two break periods during an 8-hour shift and three break periods during a 12-hour shift.

3.02 Staffing Imperatives. The Parties recognize there are staffing requirements necessitated by staffing imperatives (ie: the nature of Jail operations) which must be addressed efficiently and where individual skills, abilities and/or qualifications of employees must supersede employee choice of assignment by seniority. Where an assignment necessitates a bona-fide occupational skill, ability or qualification, it is agreed the process shall be that within the group of employees with the required skills, abilities or qualifications, senior employees will be offered the assignment and junior employees required to assume the assignment when there are insufficient senior employees accepting such assignments.

3.02a Shift Bidding. Consistent with section 3.02 (Staffing Imperatives), the following procedure shall apply:

1. Rules. Rules regarding the bidding process will be established by mutual agreement between the County and the Union no later than May 31st of each year.

2. Bid Timing/Facility Choice. By July 10 of each year a shift bid schedule for adult correctional facilities shall be posted (including electronic bulletin boards and/or email). Deputies shall have the right to bid facility and shift by seniority for the following calendar year. Deputies shall make every effort to place their bid in twenty-four (24) hours, but in no case more than forty-eight (48) hours.

3. Shift Bid. The making of a shift bid is defined as the bidding deputy placing his/her name on the shift bid sheet provided. Once the deputy's name is on the bid sheet, he/she cannot change the bid, provided no one shall be skipped unless they have been personally notified by the shift or administrative sergeant it is their turn to bid.
o **Absent During Bidding.** Deputies who know, or reasonably should know, that they will be absent when it is their turn to bid shall make a reasonable effort to be available. Upon timely request, an updated bid shall be emailed to the requesting deputy. If unavailable, a deputy may leave their bid preferences in writing with the appropriate sergeant.

o **Skipped Deputies.** If any deputy is skipped, the bid will continue to subsequent deputies until the skipped deputy notifies the shift or administrative sergeant of his/her bid; which shall be limited to then available shifts, without bumping.

4. **Bid Limits.** A shift bid period shall be defined as being of three (3) months duration. Corrections deputies shall not bid the same shift more than two (2) times consecutively.

5. **Vacation Bid.** The first vacation bid shall be at the same time as shift bidding pursuant to section 5.03 (Vacation Bidding).

6. **Revised Schedule.** In the event subsequent bids become necessary because of a change to the schedule by the Sheriff's Office, the Sheriff's Office shall afford not less than thirty (30) days for deputies to bid on a revised schedule.

7. **Temporary Assignment.** The parties agree that deputies may be temporarily assigned to another shift to maintain appropriate staffing, facilitate training or for monitoring of performance.

8. **Return from Temporary Assignment.** Consistent with section 3.02, deputies being pulled or assigned (off bid) to another facility to maintain appropriate staffing shall have the option to return to the deputy's original bid facility or assignment. The deputy being ordered in will replace the deputy that was pulled or assigned off bid; thus allowing the affected deputy to return to their original bid shift or assignment.

9. ** Sergeants.** Corrections Sergeants shall rotate shifts among themselves.

3.02b **Vacant Bid.** Any newly created or vacant bid shall be posted for seven (7) calendar days for bid by seniority among the deputies within that shift. If no one within the shift bids the newly created or vacant bid, it will then be offered to deputies holding a floater assignment. Once the new or vacant bid has been filled, any resulting bid vacancy may be filled by decision of the Chief of Corrections or non-bargaining unit designee.

3.02c **Probationary Deputies.** Probationers may be assigned shifts of at least a week's duration by the administration and may not bid for shifts until the completion of their probation period. The County will make a good-faith effort to give probationary deputies thirty (30) days notice of work schedule after completion of their FTO period, but the probationary employee may be assigned to a different work schedule as business needs dictate. Normally, probationary deputies will not be assigned Friday-Saturday or Saturday-Sunday as their days off, except when replacing an absent deputy.

3.02d **Shift Exchanges.** Shift exchanges are voluntary on the affected deputies part. Deputies wishing to exchange a shift must complete the appropriate form.
and obtain appropriate authorization. Failure to show up for a shift exchange will result in revocation of the privilege to exchange shifts for up to one year and the time is required to be made up as staffing dictates. Shift trades cannot cause an adverse impact with unreasonably extended work hours. It is understood by both parties that per the FLSA, no overtime liability will be incurred by the County when deputies voluntarily exchange shifts. Probationary deputies are not allowed to exchange shifts except with prior approval of his/her supervisor. Such shift exchanges shall not result in a deputy working the same shift for more than two (2) consecutive three (3) month periods.

3.02e Shift Change – Overtime compensation shall not be paid when two shifts are worked in one twenty-four (24)-hour period due to a shift change.

3.03 Overtime Definitions. Overtime and various categories/expectations of overtime are defined as follows:

- **Overtime** – shall be paid at the rate of time and one-half of a deputy’s regular straight-time hourly rate of pay in fifteen minute increments determined, on 7 ½ minutes worked.
- **Hold-over** – is authorized overtime as an extension (holdover) of a shift for the completion of an assignment, meeting coverage or related tasks that could not be completed during the normal course of work or due to a delay in relief. Except in case of emergency, 12-hour shift deputies will not be held over more than four (4) hours.
- **Order in** – is a type of mandatory overtime, including off-duty court appearances when a deputy is required to work when he/she would regularly be scheduled off-duty and does not include holdover.
- **Voluntary Overtime** – is overtime worked by mutual agreement or as provided in section 3.04a (Overtime Selection List).
- **Overtime Authorization** – All overtime must be authorized in advance consistent with Sheriff’s Office and/or County policy.

3.03a Minimum Overtime Between Shifts. Deputies shall be guaranteed two (2) hours pay at the overtime rate when called back or ordered in between shifts.

3.03b Hold-Over Overtime. Hold-over is generally completed in two (2) hours or less. If work extends beyond two (2) hours, the deputy will be paid the actual hours on duty at the overtime rate and the time will be considered an Order in for the purposes of “Order-In” rotation tracking.

3.03c Minimum Overtime on Regular Days Off. Deputies shall be guaranteed four (4) hours pay at the overtime rate when ordered in or working voluntary overtime. If work extends beyond four (4) hours, the deputy will be paid the actual hours on duty at the overtime rate. Regular days off are defined as the time between the last on-duty hour following completion of an deputy’s shift schedule until the first on-duty hour starting the deputy’s next shift schedule.
3.03d Minimum Overtime During Vacation. Deputies shall be guaranteed eight (8) hours at the overtime rate of plus their normal salary (20 hours of straight time) if ordered in during scheduled vacation time. The deputy shall not be charged for the vacation day. Vacation is defined as the time between the end of the last on-duty hour of the shift scheduled prior to commencement of the vacation and the first on-duty hour starting the deputy’s next scheduled shift following the vacation. Days off in conjunction with vacation, at the beginning or end of the vacation shall be treated as vacation days and paid as such under this subsection. While on vacation, a deputy shall have the right to bid on overtime, providing the deputy accepts the normal overtime rate without replacement of the vacation day.

3.03d(1) Vacation Overtime Authorization. In order to be paid for an order in during vacation, at the rate outlined in section 3.03d (Minimum Overtime During Vacation) above, including subpoena responses or nonrefundable loss, the call back must have been authorized in advance by the Sheriff, Undersheriff, Chief of Corrections, Jail Lieutenant or Duty Staff Officer.

3.03d(2) Nonrefundable Loss. In the event a deputy’s vacation or regularly scheduled time off is canceled or modified because he/she is required to return to work after having notified the supervisor that he/she will suffer a nonrefundable out-of-pocket loss, and as a consequence the deputy suffers such a loss, the deputy shall be made whole for any such documented loss.

3.04 Equal Opportunity for Overtime. Overtime opportunities will be afforded as equally as possible within two major groups, Corrections Deputies and Corrections Sergeants. All overtime will be assigned through the Department and deputies will be paid the overtime rate as defined in this Agreement.

3.04a Overtime Selection List. Each group shall have a separate selection list. Corrections Sergeants or Deputies shall not replace each other unless the respective list has been exhausted. Currently qualified Acting Sergeants will be given priority over other Deputies for Sergeant overtime. In case of emergency nothing in this Agreement shall limit any right of the Sheriff or designee to assign overtime directly to or call out deputies, not withstanding their position on the list, or when assigned overtime or call out requires deputies to possess the required bona fide occupational skill, ability or qualification.

3.04b Overtime Posting. The Sheriff’s Office will maintain a system of recording overtime worked by all members of the bargaining unit with a current posting on a bulletin board accessible to the deputies. The Sheriff’s Office may comply with this section with a computer-based posting, accessible to deputies.

3.04c Voluntary Overtime Bidding. The Sheriff’s Office will post voluntary overtime opportunities. Deputies will bid voluntary overtime at least 48 hours before the beginning of the shift, based on fewest overtime hours worked, then seniority; provided deputies who bid overtime must work bid overtime. The Sheriff’s Office shall post a monthly list showing each deputy’s respective number of overtime hours.
3.04c(1) Voluntary Overtime – 12-hour Shifts. The entirety of section 3.03 (Overtime Definitions) shall not apply to deputies on 12-hour shifts except they shall be paid overtime whenever such hours exceed 171 straight-time worked hours as provided in section 3.01d (12-Hour Shift).

3.04d Voluntary Non-bid Overtime. The Sheriff’s Office will call deputies for non-bid overtime based on their seniority, provided, the list of deputies will be rotated (where last callout stopped, the next person in seniority starts the next call out) so as to give each deputy an equal opportunity for overtime work.

3.04e Mandatory Overtime. Mandatory overtime shall be paid at the overtime rate including deputies on 12-hour shifts, irrespective of section 3.01d (12-Hour Shift). Main Jail Corrections Deputies, Work Center Corrections Deputies, and Sergeants will have separate order-in logs. When possible, mandatory overtime shifts will be assigned 48 hours in advance of the shift. Generally, mandatory overtime will be site specific; provided nothing in this section precludes employees from one facility being ordered in to work at another facility if minimum staffing cannot be maintained without such action, or in the case of an emergency. Sergeants, or their designee in emergency situations, will call deputies for mandatory overtime based on criteria listed below provided the call out resumes where the last call out stopped.

3.04e(1) Multiple Shifts. When multiple shifts must be filled, the first deputy on the order-in log, using the criteria below, will be given the choice of the available order-in shifts; then the next deputy on the order-in log will be given the choice of the remaining shifts, and so on, until all available shifts are filled.

3.04e(2) Order In Criteria. The following criteria will be used when ordering deputies in to work:
   - date last ordered to work mandatory overtime with oldest date called first
   - special circumstances/deputy qualification (such as driving requirements, shift exchanges and general safety issues)
   - deputies will only be ordered in on their weekend as a last priority or in an emergency
   - the order in will generally be no longer than 4 hours

3.04f Extended Overtime. Deputies required to work on overtime (includes special duty) for an extended period shall be entitled to a minimum of eight (8) hours time off before returning to duty.

3.05 Extended Shifts. Deputies who are required to work extended shifts of more than sixteen (16) consecutive hours, shall be paid for a designated "period of sleep" if in the facility, on duty and available for immediate response.

3.06 Compensatory Time. Employees earning overtime may elect to accrue such time to a compensatory time bank in lieu of overtime pay. The compensatory time bank shall be capped at eighty (80) regular-time hours. The Sheriff shall pre-approve the days on which compensatory time will be taken, upon consideration of staffing
needs. Compensatory time requests shall be submitted at least seven (7) calendar
days before the date requested for use. Any denial shall be returned to the employee
with an explanation for the denial within five (5) calendar days of receipt. Compensatory
time not scheduled is subject to being cashed out upon request of the
employee and agreement of the Sheriff. The employee may make such a request once
each year. Employees shall be paid their accrued compensatory time upon separation
from County employment.

ARTICLE 4 – HOLIDAYS

4.01 Eligibility Criteria. Deputies shall be entitled to accrue time in lieu of
holidays only when the holiday is in a month for which the deputy receives
compensation. Compensation is defined as payment of wages for work performed,
vacation or accrued sick leave, or income for industrial injury not to exceed twelve
months; provided that said work, vacation and/or paid leave must equal or exceed
payment for eighty (80) hours in a calendar month. Deputies working less than an
assigned eight-hour schedule shall receive holiday pay based on their budgeted full-
time equivalency.

4.01a Eligibility if on Payroll on 6/15/94. Deputies on the payroll on
June 15, 1994, will remain subject to the eligibility requirement of 50 compensated
hours.

4.02 Accrual and Bidding of Holidays. All Corrections Deputies and
Corrections Sergeants shall receive in lieu of holidays, 7.34 hours per eligible month up
to 88 hours (11 days @ 8 hours). These days shall be scheduled as vacation
consistent with section 5.03 (Vacation Bidding) except as noted below. Holiday hours
accrued in the current year are available to be scheduled in the current year.

4.02a Specialized Units. Alternative Corrections, and the Jail Transport
Units shall bid as vacation three holidays (Thanksgiving, Day before Christmas and
Christmas Day on the day the County observes these holidays) and Classification shall
bid these three holidays as vacation on the actual holiday if it is a normally scheduled
workday consistent with section 5.03 (Vacation Bidding).

4.02b 12-Hour Shift. In the event the Sheriff’s Office needs to make staff
reductions in the Jail or Work Center and gives notice prior to shift bidding in section
3.02a (Shift Bidding) that holidays shall be paid for, in lieu of accruing time, then the
following January all deputies assigned to work a 12-hour shift on a continuing basis
shall receive, 7.34 hours payment each month in lieu of holiday accruals per eligibility
criteria in section 4.01 (Eligibility Criteria).

4.03 Pay on Designated Holidays. Deputies who work on President’s Day,
Veteran's Day, Thanksgiving, the day after Thanksgiving, the day before Christmas or
Christmas Day (based on the actual holiday, not the County-observed holiday) will be
paid at the overtime rate for all hours worked each of those days between 12:00 a.m.
and 11:59 p.m., regardless of hours worked per section 3.01c (Swing Shift Premium).
There shall be no compounding or pyramiding of premiums and overtime rates.
4.04 Personal Holiday. Each deputy shall receive one (1) personal holiday (eight hours) each calendar year. The personal holiday must be taken during the year and cannot be cashed out upon separation. No deputy shall be eligible to receive the personal holiday until after completion of three (3) months of employment.

4.04a Personal Holiday Scheduling. Stipulations to the above policy are as follows:

- **Staffing Requirements.** A personal holiday request may not create a conflict with facility staffing requirements nor result in known overtime.
- **Request Timing.** Deputies must request use of a personal holiday at least two (2) weeks in advance of the requested day off.
- **Response Timing.** The Sheriff's Office shall provide a response no later than seven (7) calendar days from the date of request and such request will not be unreasonably denied.

**ARTICLE 5 - VACATION**

5.01 Vacation Accrual.

5.01a Vacation Accrual Rate. Eligible deputies shall accrue vacation on a calendar month basis. The amount of vacation earned for each calendar month shall be determined by the number of years of continuous service completed by the deputy immediately prior to the commencement of the calendar month in accordance with the following chart:

<table>
<thead>
<tr>
<th>During the following years of service</th>
<th>Hours of vacation per month</th>
<th>Hours of Holiday per month</th>
<th>Total Monthly Accrual</th>
</tr>
</thead>
<tbody>
<tr>
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<td>7.34</td>
<td>14.01</td>
</tr>
<tr>
<td>2</td>
<td>7.34</td>
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<td>15.34</td>
</tr>
<tr>
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<td>10.00</td>
<td>7.34</td>
<td>17.34</td>
</tr>
<tr>
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<td>11.34</td>
<td>7.34</td>
<td>18.68</td>
</tr>
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<tr>
<td>15</td>
<td>16.67</td>
<td>7.34</td>
<td>24.01</td>
</tr>
</tbody>
</table>

5.01b Scheduling. Vacation hours accrued in one year must be scheduled in accordance with sections 5.03 (Vacation Bidding) and 5.04 (Vacating Bidding Limits) and used before December 31 of the following year.

5.01c Eligibility Criteria. To be eligible to accrue vacation as provided herein, deputies must receive compensation each month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, or other paid leave; provided that said work, vacation and/or paid leave must
equal or exceed payment for eighty (80) hours in a calendar month. Income resulting from an industrial injury to a maximum of twelve (12) months from the date of the injury shall also be credited as compensation.

5.01c(1) Eligibility if on Payroll on 6/15/94. Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

5.01d Monthly Vacation Accrual Anniversary Date. For deputies hired on or after June 15, 1994, the deputy’s anniversary date will be used for vacation accrual purposes.

5.01d(1) Hired Prior to June 15, 1994. The monthly vacation accrual for deputies hired prior to June 15, 1994, will be based on the years of service they would have been given credit for on January 1, 1994, had the annual vacation accrual schedule remained in effect. January 1 will be the anniversary date for future vacation accrual for deputies hired prior to June 15, 1994.

5.02 Termination Cashout. When a deputy leaves employment with the County for any reason, such deputy will be paid for any unused vacation accrued to the date of termination at the appropriate schedule (see section 5.01a – Vacation Accrual Rate) for the years of service completed. Deputies who terminate or are terminated from County employment within six (6) months of their employment date shall not receive pro-rated vacation pay.

5.03 Vacation Bidding. During the month of July of each year, in conjunction with shift bidding (section 3.02a – Shift Bidding), a vacation chart shall be posted by the Sheriff’s Office for the following year. Deputies assigned to the Main Jail, Transport and Classification, Alternative Corrections, and the Work Center facility will bid on a separate vacation chart. The vacation charts must be completed by December 15th.

5.03a Bidding Limits.
- Main Jail –
  - No more than four (4) Corrections Deputies may bid for the same vacation period.
  - No more than two (2) Sergeants, who must have different days off, may bid for the same vacation period.
- Work Center – No more than two Corrections Deputies may bid for the same vacation period.
- Special Assignments (Transport, Classification and Alternative Corrections) – No more than one deputy may bid for the same vacation period per special assignment area.

5.03b First Selection. Deputies shall bid for vacation periods per section 5.04 (Vacation Bidding Limits) as follows: Each individual, in seniority order, shall select their first two weeks of vacation time in a minimum of one-week and a maximum of two-week blocks, which need not be scheduled consecutively. Deputies shall make every effort to place their bid in twenty-four (24) hours, but in no case more than forty-eight (48) hours to make their bid, provided no one shall be skipped unless they have
been personally notified by the shift or administrative sergeant it is their turn to bid. If any deputy is skipped, the bid will continue to subsequent deputies until the skipped deputy notifies the shift or administrative sergeants of his/her bid which shall be limited to then available shifts without bumping. Deputies who know, or reasonably should know that they will be absent when it is their turn to bid, shall make a reasonable effort to be available. Upon timely request, an updated bid shall be emailed to the requesting deputy. Deputies who know, or reasonably should know they will be absent when it is their turn to bid shall make a reasonable effort to be available. If unavailable, a deputy may leave their bid preference in writing with the appropriate sergeant.

5.03c Second and Subsequent Selections. Following the first vacation selection a similar bid selection shall be held for individuals entitled to more than two weeks and a third and fourth bid, if necessary, for those entitled to more than four weeks shall be held. It is understood that the subsequent bids shall not displace selections made during prior bidding periods.

5.03d Definition. The making of a vacation bid is defined as the bidding deputy placing his/her name on the vacation bid sheet provided. Once the deputy's name is on the bid sheet he/she cannot change the bid.

5.03e Probationary Deputies. Probationary deputies hired after the annual vacation bid process shall submit written leave requests for open vacation slots using accrued leave or holidays.

5.03f Vacation Bid Weeks Trading. When vacation bidding is completed, deputies may trade bid weeks with the approval of the Sheriff’s Office. Such trades shall not be unreasonably denied by the Sheriff’s Office. Written requests must be submitted 30 days prior to the vacation commencing.

5.04 Vacation Bidding Limits. Total hours which may be bid include the anticipated current year's accrued vacation under section 5.01a (Vacation Accrual Rate), and anticipated vacation which will be carried over (including any anticipated unused current year’s accrued holiday hours per section 4.02 - Accrual and Bidding of Holidays), and vacation bonus pursuant to section 7.03 (Bonus Days). No deputy can take vacation unless the hours have been accrued and are available. Vacation is accrued in the current year and available the following year.

5.05 Deputies Working Less Than 1.0 FTE. Deputies working less than an eight-hour schedule shall accrue vacation benefits based on their currently assigned, but no more than their budgeted full-time equivalency.

5.06 Vacation Carryover. Deputies shall be allowed to carry over up to two hundred and forty (240) hours of vacation from the last pay period of any calendar year to the next, which is non-cumulative.

5.07 Floaters. Up to 40 hours of vacation may be excluded from bidding to be "floated," with the requirement that any floater must be scheduled on approval of his/her
Lieutenant with no additional overtime costs incurred. The parties recognize there may be periods identified on shift schedules where special staffing needs will require that floating days off and days available for changes to a bid vacation may be limited or excluded.

**ARTICLE 6 - HEALTH & WELFARE**

**6.01 Eligibility Criteria.** The County agrees to make contributions into Plans, as outlined in the following Sections of this Article, on behalf of deputies covered by this Agreement who are regularly scheduled to work and are compensated at least eighty (80) hours per month, with contributions to begin on the first of the month following one (1) month of eighty (80) compensated hours of employment in one calendar month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, other paid leave or income resulting from industrial injury not to exceed twelve (12) months from the date of injury; provided that said work, vacation, paid leave and/or industrial injury must equal or exceed payment for eighty (80) hours in a calendar month. Compensation earned in one (1) month provides benefit coverage in a future month.

**6.01a Eligibility if on Payroll on 6/15/94.** Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

**6.01b Change or Modification of Plans.** The County and the Union agree that carriers may be changed, or benefits modified upon mutual agreement. The Whatcom County Self-Insured Medical Plan may be changed to a successor plan.

**6.02 Health & Welfare:*** The County agrees to make monthly contributions for deputies, their spouses and dependents towards the following plans:

**6.02a Medical.** Whatcom County Self-Insured Cap Plan, or a successor plan.

**6.02b Dental.** Washington Teamsters Welfare Trust Dental Plan “B”, or any successor plan.

**6.02c Vision Care.** Washington Teamsters Welfare Trust (extended benefit plan) or any successor plan.

**6.03 Life Insurance.** The County shall provide life insurance benefits for deputies equivalent to one year’s base salary to a maximum of $50,000, through a carrier to be selected by the County.

**6.04 Medical Premiums.**

**6.04a County Contribution.**

**6.04a(1) Medical.** For 2015 and 2016, the County will contribute into the County Cap Plan for each employee up to $1,089.50 per month for medical
coverage. Employees may choose from (a) the Qualified High Deductible Health Plan (QHDHP), (b) the Contributory Plan, or (c) the Non-Qualified High Deductible Health Plan. A successor Cap plan may be required to have benefit modifications in order that coverage can be provided within the County’s contribution.

6.04a(2) Dental, Vision and Life Insurance. The County agrees to pay the appropriate monthly premium amounts and such increases as required to maintain the dental, vision and life benefits listed in sections 6.02b (Dental) and 6.02c (Vision Care).

6.04b Employee Medical Contribution. If the Contributory Cap Plan (sections 6.10b - Contributory Cap Plan and 6.10b(1) –Coverage) requires an employee premium contribution, such contribution shall be by pre-tax payroll deduction utilizing the Flex 125 program.

6.05 Trust Terms. The County agrees to be bound by the terms of the Trustees of the Trust Funds.

6.06 Flex 125 Plan. All bargaining unit deputies are eligible to enroll in the County’s Flexible Spending Account Plan (“Flex 125 Plan”).

6.07 Medical Coverage Dispute. The County and the Union agree that any dispute over a denial of coverage under the Whatcom County Self-Insured Medical Plan may be appealed per plan documents.

6.08 Medical Schedule of Benefits. The schedule of benefits for the Cap Plans may require modification during the life of the agreement in order that coverage can be provided within the County’s contribution Cap amount established in section 6.04a(1) (Medical). The parties agree that at any time the County may revise benefits to meet section 6.04a(1) (Medical) limitations by following section 6.09 (Medical Advisory Committee); update the summary plan description and schedule of benefits in order to be legally compliant with applicable law; avoid unintended benefit reductions or enhancements consistent with industry standards (for example, limits on experimental procedures); address administrator limitations; and make changes in plan administrator or administration. The parties agree the County may, but is not required to, enhance the Cap plans.

6.09 Medical Advisory Committee. In the event the Cap Plan schedule of benefits is to be modified, the County shall convene the Medical Advisory Committee. The Union shall be given advance notice of such meeting and shall be afforded an opportunity to designate one of its members to attend and participate in the meeting. The Medical Advisory Committee shall not replace the parties’ RCW 41.56 obligations. The County intends (but does not guarantee data availability) to review medical utilization cost and medical benefits beginning in July of each year in preparation for Cap plan choices for the following year.

6.10 Medical Plan Options. The following medical plan options are available in 2015 and 2016.
6.10a Qualified High Deductible Health Plan (QHDHP). Employees participating in the Qualified High Deductible Health Plan may be enrolled in a Health Savings Account (HSA) if otherwise qualified to have such an account. The County will contribute one-time seed money to a voluntary HSA, a total of $1,250 per employee if signing up as an employee only OR $2,500 for employee plus dependents so long as the deputy has enrolled and is otherwise qualified to have an HSA account. Fifty percent (50%) will be contributed in January with the remainder contributed in equal monthly installments throughout the remaining months.

6.10a(1) New Hires. New hires that choose the Qualified High Deductible Health Plan (QHDHP) will be eligible to establish a HSA, if they are otherwise qualified to have such an account. The County will make a one-time contribution to the HSA to a total of up to $1,000 for an employee signing up as an employee only OR up to $2,000 for an employee plus dependents. Fifty percent (50%) will be contributed the first paycheck they are eligible for medical benefits so long as the deputy has enrolled and is otherwise qualified to have an HSA account with either $45.45 (employee only) OR $90.91 (employee plus dependents) contributed by the County throughout the remaining months of the year.

6.10a (2) Employee HSA Contributions. Employees participating in the Health Savings Account are also eligible to contribute to their Whatcom County Health Savings Account (HSA) through payroll deduction.

6.10b Contributory Cap Plan. For 2015 and 2016, employees may elect to buy-up to the Contributory Cap Plan via authorized monthly payroll deduction of $84.90.

6.10b(1) Coverage. The County anticipates the continuation of a Contributory Plan. The Contributory Plan shall have benefits revised as needed pursuant to section 6.08 (Medical Schedule of Benefits) to adjust the schedule of benefits based on the Benefit Consultant’s Renewal and Recommendation Projection for 2015 and 2016 with the County contribution of up to $1,089.50 and employee contribution of up to $84.90 per month.

6.10c Cap 2000 Plan – Non-Qualified High Deductible. For 2015 and 2016 Employees may elect a non-qualified high deductible plan with no payroll deduction. This is the default medical plan.

6.10c(1) Non-Qualified High Deductible The County anticipates the continuation of an employee Non-Qualified High Deductible option as would be constituted/revised following the application of section 6.08 (Medical Schedule of Benefits) with no payroll deductions.

6.11 Retirement Health Savings Plan. The County agrees to make available to bargaining unit members a Retirement Health Savings Plan in accordance with and if allowable by IRS regulations.
6.12 Should the County agree to provide a medical plan to any employee or group of employees (an award is not an agreement) in 2016 and/or 2017, the County agrees to make same available to the employees of this bargaining unit on the same “package” basis.

ARTICLE 7 - SICK LEAVE

7.01 Sick Leave Usage. Sick leave shall include time off for the bona fide illness, accident or injury, dentist and doctor appointments of the deputy. Use of sick leave for other than the purposes outlined in this Article may result in disciplinary action.

7.01a Utilization. A deputy may use sick leave to care for the child of the deputy with a health condition that requires treatment or supervision or for the care of a spouse, domestic partner, registered spousal equivalent (40 hour maximum), parent, parent-in-law or grandparent of the deputy who has a serious health condition or during a health emergency. Family members are as defined by WAC 296-130-020. Deputies must register their domestic partner with a State agency or their spousal equivalent with Administrative Services – Human Resources on the appropriate form, before being able to utilize accrued sick leave. Provided, that the employer has the right to require a doctor’s certification that the illness of the family member, domestic partner or registered spousal equivalent is sufficiently serious to require the deputy to be in attendance.

7.02 Eligibility Criteria and Accrual Rate. Cumulative sick leave shall accrue to each deputy covered by this Agreement who has completed one(1) month of employment of eighty (80) compensated hours for a calendar month, in the amount of one (1) day, not to exceed eight (8) hours, for each month of employment to a maximum of nine hundred and sixty (960) hours. Deputies working less than an assigned eight-hour schedule shall accrue sick leave benefits based on their currently assigned, budgeted full-time equivalency. To be eligible to accrue sick leave as provided herein, deputies must receive compensation each month. The term compensation as used herein is defined to be payment of wages for work performed, vacation, accrued sick leave, or other paid leave; provided that said work, vacation and/or paid leave must equal or exceed payment for eighty (80) hours in a calendar month. Income resulting from an industrial injury to a maximum of twelve (12) months from the date of the injury shall also be credited as compensation.

7.02a Eligibility if on Payroll on 6/15/94. Deputies on the payroll on June 15, 1994, will remain subject to the eligibility requirement of 50 compensated hours.

7.02b Order of Accrual Usage. In general, eight hours of sick leave is accrued each month even if a deputy has accrued the maximum sick leave permitted under a union contract.

7.03 Bonus Days. A deputy having accrued seventy-five (75) days (600 hours) of sick leave on December 31 of any year shall receive an additional five (5) days (40 hours) of vacation to be used in the following calendar year.
7.04 Termination Cashout. Any deputy with three (3) or more years of employment with the County shall be entitled to cash upon termination in the amount of twenty-five percent (25%) of their sick leave bank at the time of termination.

A deputy hired before September 1, 1988 shall be entitled to cash upon termination in the amount of fifty percent (50%) of their sick leave bank at the time of termination.

7.04a Notification and Application. Deputies must give at least thirty (30) days notice prior to termination. Termination cashout of sick leave shall not apply to any deputy terminated for cause.

7.05 Proof of Illness. Upon request of the County, the deputy will provide proof of illness.

7.06 Layoff. Sick leave shall continue to accrue during periods of approved paid leaves of absence only, and during periods of illness. If a deputy is on layoff, sick leave shall not accrue during such layoff; however, upon return to work, the sick leave accrual remaining after cashout at the time of layoff, shall be made available to the deputy and additional days shall accrue from the first month the deputy returns to work.

7.07 Accrual Deduction. A deputy's sick leave bank shall be reduced by the number of hours absent from work for the reasons set forth in sections 7.01 (Sick Leave Usage), 7.01a (Utilization), and 7.08 (Maternity or Disability Leave).

7.08 Maternity or Disability Leave. Sick leave shall include time off for maternity or disability leave. In the event sick leave is exhausted before the deputy returns to work, any vacation or other paid leave which has accrued must be utilized before approval of any leave without pay is considered by the County except for leaves falling under the federal Family and Medical Leave Act.

7.09 Notification to Supervisor. It is the deputy's responsibility to notify his/her supervisor of their inability to work because of illness or injury prior to the beginning of the shift. In the event no sick leave notification is made within one (1) hour after the beginning of the shift, the supervisor shall consider and handle the deputy's absence as an absence without pay, unless the deputy later satisfactorily substantiates, before payroll deadline, that it was impossible to make or cause such notification. In the case of an illness which will result in a protracted absence, a letter from the doctor giving an anticipated return date will waive the daily notification requirement.

7.10 Sick Leave Sharing. The County agrees to allow a yearly donation of twenty-four (24) hours under the County's Sick Leave Sharing Program.

7.11 On-Duty Assault. In the case of a documented on-duty assault, a deputy with a Workers' Compensation injury shall suffer no loss in wages or reduction in his/her sick leave bank for the first three days (one day = normally scheduled shift for days off) following the assault.
ARTICLE 8 - FAMILY CARE

The County agrees to provide unpaid leave to any eligible deputy covered by this Agreement, consistent with the Washington State Family Leave Laws and the Federal Family and Medical Leave Act. Deputies are not required to use accrued vacation time, personal holiday, compensatory time or sick leave before commencing unpaid family leave, except an employee who has previously used twelve (12) weeks of unpaid FMLA will use all allowed accrued vacation, sick, and personal holiday time before beginning unpaid leave.

ARTICLE 9 - JURY DUTY

When a regular deputy covered by this Agreement is called upon for jury service in any municipal, county, state or federal court, the deputy shall advise the department head upon receipt of such call and if taken from work for such service, shall be reimbursed as provided herein for any loss in wages while performing such service; PROVIDED, that there shall be deducted from the wages of such deputy an amount equal to the amount such deputy received for jury duty.

ARTICLE 10 - BEREAVEMENT LEAVE

If a deputy suffers a death in the immediate family, the deputy shall be allowed not more than five (5) days (not to exceed forty (40) hours) off without loss in pay for bereavement in the death of spouse, domestic partner, registered spousal equivalent, children, and parents, including step-parents and step-children of the deputy and spouse and three (3) days off for other immediate family members. (Defined to be brothers, sisters, grandchildren or grandparents of either the deputy or the deputy's spouse.) Deputies must register their domestic partner with the State of Washington or spousal equivalent with Administrative Services – Human Resources on the appropriate form before being able to utilize bereavement leave. For the purposes of bereavement leave only, a “day” is defined as the number of hours a deputy is assigned to work for the requested days off.

ARTICLE 11 - INITIATION FEE AND DUES CHECKOFF

11.01 Authorization of Deductions. For individuals who certify in writing that they authorize such deductions, Union initiation fees and monthly dues shall be deducted from the deputy’s payroll and remitted to the Secretary-Treasurer of the General Teamsters' Local Union No. 231. Accompanying said monies shall be a list of deputies, their social security numbers, and amounts to be credited to their account.

11.02 Payroll Deduction. The Union and each deputy authorizing the assignment of wages for the payment of Union dues hereby undertake to indemnify and hold the County harmless from all claims, demands, suits, or other forms of liability that may arise against the County for or on account of any deduction made from the wages of such deputy.
ARTICLE 12 – WORK ASSIGNMENTS AND NON-WAGE REIMBURSEMENTS AND PAYMENTS

12.01 Specialty Positions. The Department may, at its discretion, appoint deputies to the following specialty positions: Range Deputy, Transport Coordinator or Training Deputies (Field, Defensive Tactics and Medical) – any of which may be required to be certified.

12.02 Specialty Position Premium. Deputies assigned to a Specialty Position listed in section 12.01 (Specialty Positions) shall be paid three point twelve percent (3.12%) based on step 6 of the deputies matrix and sergeants shall be paid two point six percent (2.60%) based on step 2 of the sergeant’s matrix per month in addition to their regular wages. As of December 21, 2014, step 3 of the sergeant’s matrix will be utilized.

12.03 Clothing, Equipment and Cleaning Allowance. New Corrections Deputies shall be allowed six hundred and fifty dollars ($650) as an initial clothing, equipment and cleaning allowance. Taxes shall be withheld in accordance with state and federal law. Effective January 1, 2008, the annual Clothing, Equipment and Cleaning Allowance was eliminated as a separate compensation item and was added to the base wage where it shall be increased automatically as future wage increases occur. The Parties agree for comparability purposes, this collective bargaining agreement provides such premium to employees as an element of wages.

12.03a Allowance Usage. The clothing, equipment and cleaning allowance shall be used to purchase and maintain uniforms and clothing required by the Sheriff’s Office, and all equipment for the safety and performance of the deputies. The department shall furnish sidearms, leather, and protective vests when required.

12.04 Repair and Replacement. The cost of repair or replacement of clothing or personal equipment (including watch replacement or repair up to a total cost of thirty-five dollars [$35]) used in furtherance of job related duties and damaged or destroyed in the line of duty will be borne by the County. (Does not include jewelry, or similar items.) The amount paid for replacement of a damaged item will be based on the general condition of the article. Whether damage was done in line of duty will be determined by the department, subject to the grievance procedure outlined herein.

12.05 Transportation Deputy Assignment. When trained and range qualified, Corrections Deputies shall rotate in the assignment of Transportation Deputy

12.05a Schooling. Transportation Deputies will be paid for hours of schooling and qualifying that may be required by the Sheriff’s Office. All hours spent in required schooling and qualifying will be considered as work hours.

12.05b Pay. Effective the first pay period 2007 Matrix rates were implemented in the payroll computer system, Transportation Pay was eliminated as a separate compensation item and was added to the base wage where it shall be increased automatically as future wage increases occur. The Parties agree for
comparability purposes this collective bargaining agreement provides such pay to employees as an element of wages.

12.05c Qualifications Standards. All Deputies shall be Transportation Qualified as an essential element of their job. The parties acknowledge that the current qualification standards require Corrections Deputies to be firearms qualified by the end of their probationary period and all Corrections Deputies must maintain firearms qualification throughout employment, with the exception of Corrections Deputies designated by the Sheriff.

12.05d Lunches. The parties agree that consistent with contracts between the County and other jurisdictions regarding the transport of inmates, deputies will be provided lunch at a contracted facility or if not at a contracted facility, the County travel policy for lunches will apply.

12.05e Western State Hospital Runs. The County agrees to continue the existing practice of providing two deputies for Western State Hospital (WSH) runs.

12.06 Pyramiding of Premiums. There shall be no pyramiding of premiums paid under Article 12 (Work Assignments and Non-Wage Reimbursements and Payments) of this Agreement.

ARTICLE 13 - PHYSICAL EXAMS

13.01 New or Rehire Required Exams. Newly employed or re-employed Corrections Deputies shall be required to take and pass a physical examination meeting the requirements of the Civil Service Commission. It is understood between the parties that the Sheriff will be furnished, upon request, a copy of any physical or mental examination ordered by the Sheriff’s Office.

13.02 Annual Exam Covered. Corrections Deputies and Corrections Sergeants may have one (1) physical exam paid by the County each year that their health plan does not provide them with a preventive exam.

13.02a Ordered Exams. Additional physical and/or mental examinations may be ordered by the Sheriff’s Office. The first physical shall be administered by the doctor of the deputy’s choice. Any second or subsequent exam ordered by the Sheriff’s Office will be administered by a physician or psychiatrist selected by the Sheriff. The above referenced physical examinations shall be paid for at the County’s expense. No deputy shall lose pay because a required physical and/or mental examination is scheduled during all or part of their normal work day.

ARTICLE 14 - MISCELLANEOUS

14.1 Rules of Operation. The Sheriff’s Office shall adopt reasonable written rules of operating the Sheriff’s Office and the conduct of deputies provided; however, before such rules are posted, a copy shall be furnished to the Union. The Union shall
be allowed not less than ten (10) days in which to make known any objection they may have concerning such rules, except in the case of emergency.

14.2 Labor Management Committee.

14.2a The parties agree there shall be a Labor Management Committee (LMC) to be convened upon reasonable notice and presentation of an agenda by the requesting party. The purpose of the committee shall be free dialogue to promote issue resolution. The furtherance of that objective and pursuant to Rule 408, no matter concerning any occurrences at a Labor Management Committee shall be used as evidence by either party in any forum for any purpose. Any agreements made by the committee that are to be evidentiary shall be reduced to writing and signed by the Union and the County's Labor Representative.

14.2b Without limitation, in light of Rule 408, any matter of concern such as:
- Operational issues
- Scheduling concepts
- Specialty position selection/disputes
- New program concepts

may be added to the agenda by the concerned party.

14.2c The Union shall designate bargaining unit members participating in Labor Management Committee meetings. The Sheriff shall designate management members. The membership need not be equal in number.

14.2d It is understood that any matter which has been made the subject of a filed formal grievance under the terms of this labor agreement shall be excluded from consideration by the Labor Management Committee and shall be addressed through the grievance procedures of this agreement. Potential grievances may be added to the agenda by either party. It is further understood that the work of the parties under this LMC provision shall in no way add to, subtract from, alter or amend the labor agreement unless mutually agreed upon by the Union and the County in writing.

14.2e Upon approval of the Sheriff, up to three (3) bargaining unit persons shall be granted release time without loss of straight-time earnings to attend scheduled Labor Management Committee meetings. Bargaining unit members assigned to attend such meetings on their day(s) off shall be compensated time and one-half (1.5) for all time spent in attendance but not less than two (2) hours of assignment.

ARTICLE 15 - UNION ACTIVITY

15.01 Negotiations. It is agreed that up to three (3) bargaining unit deputies shall be allowed to participate in negotiations without loss in pay, provided that:

(1) such deputies shall not receive overtime pay while serving on the negotiations committee.
(2) one (1) deputy will be selected from the Corrections Sergeant classification, one (1) deputy from the Main Jail and one (1) deputy from the Work Center.

15.02 Union Activity. It is further agreed that other time off for Union activity will be allowed without compensation providing such time off will not unnecessarily disrupt the operation of the Sheriff’s Office. The Union will keep Human Resources advised of shop stewards and current members on the negotiating committee.

15.02a Shop Steward Training. Up to two shifts per calendar year shall be permitted off without pay for Shop Stewards to attend training/seminars conducted by the Union. Deputies must submit request at least thirty (30) calendar days in advance of training. The County may refuse to grant leave if absence would adversely impact the operations of the Sheriff’s Office.

ARTICLE 16 - SEPARABILITY AND SAVINGS

If any article or section of this Agreement should be held invalid by operation or law or by any tribunal of competent jurisdiction, the balance of this Agreement shall continue in full force and effect. The article or section held invalid shall be modified as required by law or the tribunal of competent jurisdiction, or shall be re-negotiated for the purpose of an adequate replacement.

ARTICLE 17 - LONGEVITY

Effective the first pay period 2007 Matrix rates were implemented in the payroll computer system, longevity was eliminated as a separate compensation item and was added to the base wage where it shall be increased automatically as future wage increases occur. The Parties agree for comparability purposes, this collective bargaining agreement provides such longevity as an element of wages.

ARTICLE 18 - GENERAL CONDITIONS

18.01 Range Placement. The County shall place deputies in a pay range, per Addendum B (Matrices), that is consistent with their duties, responsibilities, and job content.

18.02 Reclassification. When a reclassification to a higher level of responsibility occurs, the deputy will be placed in the pay step of the higher pay range that will provide not less than a five percent increase in salary. The reclassification date becomes the anniversary date for step advancement purposes.

18.03 Step Placement. Deputies will be placed in the first step of their assigned pay schedule. All pay schedules have annual steps. Movement to step 7 through 11 for sergeants and to step 11 through 15 for deputies shall require three years service at the previous step.
18.03a Sheriff’s Discretion on Step Placement. It is understood between the parties that the Sheriff may place deputies in a higher pay step at his discretion, subject to the approval of the County Executive. The Union shall be notified when this occurs.

18.04 Step Advancement. Advancement to the next pay step shall occur on the first day of the month in which the anniversary date falls.

18.05 Promotion Anniversary Date. When a deputy is promoted to a higher classification, the promotion date becomes the anniversary date for step advancement purposes.

18.06 Personnel Records Access. Each deputy shall have access to his/her personnel records, except supervisor’s notes prepared for the purpose of preparing deputies evaluations.

18.07 Performance Evaluations. Deputies shall, upon request, be given an opportunity to review all evaluation reports made by any and all supervisory personnel. The deputy shall review and sign his/her evaluation after the Sheriff or designee has made written comments. If any additional comments are made after the deputy signs, the deputy shall be notified.

18.08 Training. Training opportunities will be offered to deputies in as fair and evenhanded a fashion as is possible.

18.09 Work In Higher Classification. Any deputy required to perform work in a position with a higher wage classification to that which the deputy normally holds for any hour worked, including deputies working in the capacity of “Lead Deputy” shall be paid at the deputy’s normal rate of pay plus five percent (5%), while so acting.

18.09a Acting Sergeant. Corrections Deputies who have taken and passed the sergeant’s examination shall be eligible to be appointed as acting sergeants should no supervisory personnel be available. In the absence of both a sergeant and acting sergeant, the Sheriff’s Office may designate the available senior qualified deputy to serve as acting sergeant. For the life of this Agreement, having once passed the sergeant’s exam, a deputy shall not be required to test again to remain as an acting sergeant; provided such deputy successfully completes either a sergeant’s exam or an in-service refresher course at least every four (4) years.

18.10 Part-Time and Temporary Deputies. Hourly rates shall be established for deputies working less than full-time by placing the deputy in the appropriate salary range based upon their employment with the County.

18.11 Shots. The Sheriff’s Office will pay for and provide the following vaccinations or shots for the existing work force on a voluntary basis: diphtheria, tetanus, hepatitis A & B, and influenza. The Sheriff’s Office will pay for and provide the same shots for all newly hired Corrections Deputies on a mandatory basis, except hepatitis A, which will be on a voluntary basis. The County will provide and pay for
follow-up blood tests to see if the hepatitis B shot was effective. New shots may be added as determined by the County Health Officer as prudent for the health of the deputies. Adverse reactions from mandated shots will be treated according to Labor & Industries standards.

18.12 Traveling Expenses. Deputies traveling out of the County on official business will be reimbursed for the reasonable cost of meals and expenses as may be authorized by County policy.

18.13 Subcontracting. Prior to subcontracting work currently performed by bargaining unit deputies, the County will give the union 60 days notice of its intent to do so and, on request, will meet and discuss the decision. The 60-day notice requirement is not applicable if the subcontracting results from an emergency situation, or if bargaining unit deputies are not displaced by subcontracting.

18.14 Electronic Funds Transfer. All regular deputies shall authorize paycheck deposit by electronic funds transfer (EFT) within thirty (30) days hire. Institution changes require four (4) weeks notice. Deputies providing documentation of their inability to open a checking and/or savings account may have this requirement waived. Deputies may stop EFT in emergency situations with at least seven (7) days notice before a scheduled payday. Employees must restart the EFT within three (3) months.

18.15 Ability to Cross Border. All employees must maintain the ability to cross the Canadian border if they are assigned to a position which may at any time require crossing the Canadian border. If an employee is unable to maintain his/her ability to cross the border, the County agrees to meet and bargain the impact on said employees if requested by the Union.

ARTICLE 19 - SALARY SCHEDULE

Effective the first full pay period after union ratification, each step in all ranges of the 2014 hourly matrix shall be increased by 5%. Deputies shall be classified pursuant to Addendum A (Position Title Index) and paid pursuant to Addendum B (Matrices), which are a part of this Agreement by reference.

ARTICLE 20 - GRIEVANCE PROCEDURE AND ARBITRATION

20.01 Grievance Definition. Grievance as used herein shall mean any dispute or controversy which might arise as to the interpretation or application of this Agreement.

20.01a Initial Filing. Grievances must be addressed within thirty (30) calendar days from knowledge of the incident by the deputy first following their chain of command in an attempt to adjust the dispute or they shall be deemed null and void. With failure within the time limit to satisfy the dispute, the grievance procedure shall be initiated.
20.01b Union Notification. Should any grievance herein defined arise, the same shall be taken up with the representative of the Union, who will then take the grievance up with the Sheriff and the Head of Human Resources or designee.

20.02 Arbitration. Any grievance submitted and processed in accordance with the grievance procedure provided above which is not satisfactorily adjusted within thirty (30) calendar days may be taken to arbitration by the County or the Union as herein provided. However, prior to arbitration, the County Executive shall be advised of the dispute.

Either party may, within five (5) working days after failure to adjust the grievance in Subsection (b), serve upon the other party written demand for arbitration. The parties shall select an impartial arbitrator within ten calendar days after service of the demand for arbitration. If the parties fail to agree within this period upon an arbitrator who is able and willing to serve, either party may, within five (5) calendar days thereafter, request the Federal Mediation and Conciliation Service to submit a list of eleven (11) disinterested persons living in the Northwest who are qualified and willing to act as an impartial arbitrator. From the list the County will strike two names, then the Union two names until the single name remaining is appointed as the arbitrator.

20.02a Hearing Commencement. The arbitrator shall commence the hearing. The award of the arbitrator shall be rendered in writing together with his written findings and conclusions and shall be final and binding upon the parties to this Agreement and upon the complaining deputy and deputies, if any.

20.02b Arbitrator's Fees. The arbitrator's fees and expenses, the cost of any hearing room and the cost of the shorthand reporter and of the original transcript, if requested by the arbitrator, shall be borne equally by the County and the Union. All other expenses and costs shall be borne by the parties incurring them.

20.02c Arbitration Venue. Venue for all grievance arbitrations shall be Whatcom County unless otherwise mutually agreed.

20.03 Time Limitations. The County and the Union agree to comply with the time limitations set forth above and either party shall have the right to insist that the time limitations be complied with, provided, however, said time limitations may be waived by mutual agreement but in no event shall failure to comply with the time limitations set forth above deprive the arbitrator of authority to decide the grievance.

20.04 No Lockout, Strike or Slow Down. All grievances as defined in this section shall be settled in accordance with the procedures outlined above and there shall be no lockout, strike, interruption of work, slow down, or other interference with production during the life of this Agreement.

20.05 Election of Remedies. Any action appealed to the Civil Service Commission shall not be subject to the grievance procedure herein. Any matter taken to the grievance procedure may not be appealed to the Civil Service Commission.
20.06 Past Practice. No action by any bargaining unit member in applying or interpreting this Agreement will be binding upon the County as a past practice.

ARTICLE 21 – SENIORITY

Seniority lists for each unit covered by this Agreement will be maintained separately for the purpose of layoff, recall, vacation, extra overtime, and shift bidding. Employees transferring from one unit to another will have their names placed at the bottom of the new unit list, provided however, total length of service with the County will be credited to such deputy for the purposes of vacations, sick leave, and longevity accrual. Seniority units shall consist of the following; Corrections Sergeants and Corrections Deputies who shall bid for shifts.

ARTICLE 22 - MANAGEMENT RIGHTS

Consistent with the Sheriff's authority and obligations in the County Charter, any and all rights concerned with the management operations of the County and its Sheriff's Office are exclusively those of the Sheriff's Office unless otherwise provided by the terms of this Agreement. The Sheriff’s Office has the authority to adopt reasonable rules for its operation and the conduct of its deputies; provided, such rules are not in conflict with the provisions of this Agreement, or with applicable law. The Sheriff's Office has the right to discipline, temporarily lay off or discharge deputies; to assign work and determine duties of deputies; to schedule hours of work, to determine the number of deputies to be assigned to duty at any time and such other rights as are normal to County government and not expressly limited in this Agreement or applicable laws.

ARTICLE 23 - INDEMNITY AND HOLD HARMLESS AGREEMENT

The County agrees to hold harmless deputies for all damages, including attorney fees which they may suffer as a result of lawsuits commenced against them arising out of their activities which are within the scope of their employment for Whatcom County. Should the deputy’s actions be outside the scope of their employment, or the allegations contained in the complaint allege actions which, if proven, would be outside the scope of their employment; or be intentional torts, then the County will not pay that judgment. In addition, the deputy will hire counsel. Whatcom County will compensate the deputy in a timely manner for that counsel on a reservation of rights basis. This means, if the allegation contained in the complaint is proven then the County will not pay the judgment and the deputy will be responsible for reimbursing the County for its attorney fees. However, should the allegation of intentional tort not be proven but merely negligence, then the County will pay the judgment and will not seek reimbursement for the attorney’s fees.

The above language will be interpreted such that the only circumstances in which the County will not pay a judgment against an deputy and the deputy will be responsible for reimbursing the County for attorney's fees paid pursuant to a reservation of rights is where it is actually found that the deputy acted outside the scope of his or her employment or committed an intentional tort.
ARTICLE 24 - TERMINATION CLAUSE

24.01 Duration. The parties acknowledge the predecessor agreement’s, terms and conditions continue as provided in RCW 41.56 and this Agreement shall be in full force and effect from July 21, 2015, to and including December 31, 2016, and shall continue in full force and effect from year to year thereafter, unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other at least sixty (60) days prior to the date of expiration.

24.02 Subsequent Agreements. It is further provided that where no cancellation or termination notice is served and the parties desire to continue said Agreement but also desire to negotiate changes or revisions in this Agreement, either party may serve upon the other a notice at least sixty (60) days prior to January 1st, 2017, or January 1st of any subsequent year, advising that such party desires to continue this Agreement but also desires to revise or change the terms or conditions of such Agreement.

THIS AGREEMENT IS EXECUTED THIS 21st day of July, 2015 by the duly authorized representative of the parties hereto.

GENERAL TEAMSTERS’ LOCAL UNION NO. 231 WHATCOM COUNTY, WASHINGTON

By: ____________________________ By: ____________________________
Rich Ewing Jack Louws
Secretary-Treasurer Whatcom County Executive

APPROVED AS TO FORM: DATE COUNCIL APPROVED:

__________________________ ____________________________
Chief Civil Deputy Prosecuting Attorney Date
ADDENDUM A
TO THE AGREEMENT
by and between
WHATCOM COUNTY, WASHINGTON
and
GENERAL TEAMSTERS’ LOCAL UNION NO. 231
CORRECTIONS DEPUTIES & SERGEANTS BARGAINING UNIT

POSITION TITLE INDEX
Effective July 6, 2014

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<th>Position</th>
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<tr>
<td>12</td>
<td>Corrections Sergeant (Non-Firearms Qualified)</td>
</tr>
<tr>
<td>13</td>
<td>Corrections Sergeant (Non-Firearms Qualified with one premium)</td>
</tr>
<tr>
<td>2</td>
<td>Corrections Deputy (Firearms Qualified)</td>
</tr>
<tr>
<td>21</td>
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<tr>
<td>22</td>
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</tr>
<tr>
<td>23</td>
<td>Corrections Deputy (Non-Firearms Qualified with one premium)</td>
</tr>
</tbody>
</table>
### ADDENDUM B

**CORRECTIONS DEPUTIES AND SERGEANTS - TEAMSTERS LOCAL UNION 231**

**Corrections Sergeant Wage Matrix (Range 1 - 13)**

Effective July 5, 2015 + 5%

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<th>Range</th>
<th>Position</th>
<th>Step 1</th>
<th>Step 2</th>
<th>Step 3</th>
<th>Step 4</th>
<th>Step 5</th>
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<th>Step 7</th>
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<tr>
<td>1</td>
<td>Sergeant (Firearms Qualified)</td>
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<td>11</td>
<td>Sergeant (Firearms Qualified) with 1 premium</td>
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<td>Sergeant (Non Firearms Qualified) with 1 premium</td>
<td>$34.90</td>
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**Corrections Deputy Wage Matrix (Range 2 - 23)**

Effective July 5, 2015 + 5%

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<th>Range</th>
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<th>Step 5</th>
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<tr>
<td>21</td>
<td>Deputy (Firearms Qualified) with 1 premium</td>
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<td>$27.55</td>
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<td>$29.69</td>
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</tr>
<tr>
<td>22</td>
<td>Deputy (Non Firearms Qualified)</td>
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<td>$28.39</td>
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<td>$32.24</td>
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<td>$32.71</td>
<td></td>
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</tr>
<tr>
<td>23</td>
<td>Deputy (Non Firearms Qualified) with 1 premium</td>
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<td>$28.16</td>
<td>$29.25</td>
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LETTER OF UNDERSTANDING #1
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
AND
GENERAL TEAMSTERS’ LOCAL UNION NO. 231

This letter of understanding is in consideration of that certain collective bargaining agreement between the General Teamsters’ Local Union No. 231, and Whatcom County, regarding and attached to the Corrections Deputies & Sergeants collective bargaining agreement.

1. Drug-Free Work Place Policy. Upon request by the County, during the term of this Agreement, the Union shall meet and enter into negotiations on an alcohol and drug-free work place policy, including drug testing.

2. Training. The County will provide the following types of training for Correction Deputies and Corrections Sergeants:

   (a) Administering of prescription drugs; and
   
   (b) AIDS prevention and safeguards against AIDS in the work environment.

3. Grooming. Mustaches shall be allowed as long as they conform to grooming standards.

4. Non-Firearms Qualified. The Sheriff shall maintain a list of employees who were not as of January 1, 2007 firearms qualified. These employees were grandfathered and will not be required to be firearms qualified during their Corrections employment with Whatcom County. Other deputies hired prior to December 31, 1998, can be relieved of the transportation qualified requirement as approved by the Sheriff and added to the list. Any such approved non-firearms qualified employees will be placed in the appropriate “non-firearms qualified” range as of July 6, 2014.

5. Wage Tables
   
   
   • 2013 – The following changes will be made to the January 1, 2012 matrices effective the first full pay period following adoption by the County Council.
     
     o 1% Sergeants in steps 2 – 5
     o 1% Corrections Deputies in steps 1 – 9
     o 2% Sergeants in steps 6 – 11
     o 2% Corrections Deputies in steps 10 – 15
     
     o Effective retroactive to January 1, 2013 all Corrections Deputies and Sergeants employed on December 10, 2013 shall receive the wage modifications listed above calculated as a percent of gross earnings
for all hours compensated in 2013 prior to implementation of 2013 wage rates (less normal payroll taxes and deductions).

- All Corrections Deputies and Sergeants employed on December 10, 2013 shall receive a one-time $400 arbitration offset (less normal payroll taxes and deductions).

- **2014** – The following changes will be made as outlined:
  - Effective January 5, 2014, all steps in all Deputies and Sergeants ranges in the 2013 matrix will be increased 1.25%.
  - Effective July 6, 2014:
    - All steps in Firearms Qualified ranges 1, 11, 2, and 21 of the January 2014 matrix will be increased 1.5%.
    - All steps in Non-Firearms Qualified ranges will remain the same as was effective January 5, 2014.
  - Effective December 21, 2014, the following steps will be dropped:
    - Step 2 of all sergeant ranges will be dropped. Sergeants in step 2 will move to step 3 with a next step date of December 1, 2015.
    - Steps 1, 2, and 3 of all deputies ranges will be dropped. Any deputy in steps 1, 2 or 3 will move to Step 4. Deputies in step 3 will move to step 5 on October 1, 2015; deputies in step 2 will move to step 5 on November 1, 2015; and deputies in step 1 will move to step 5 on December 1, 2015.
LETTER OF UNDERSTANDING #2 (TEMPORARIES WITH BENEFITS)
BY AND BETWEEN
WHATCOM COUNTY, WASHINGTON
GENERAL TEAMSTERS’ LOCAL UNION NO. 231

This Letter of Understanding is by and between Whatcom County, hereafter called “the County,” and General Teamsters’ Local Union No. 231, hereafter called “the Union,” regarding and attached to the Corrections Deputies & Sergeants Collective Bargaining Agreement (CDSCBA)

The purpose of this Letter of Understanding is to establish the conditions under which an employee may fill an ongoing full-time temporary position with benefits under CDSCBA.

1) Temporaries with Benefits
The County sometimes identifies the need for ongoing full-time temporary positions not funded in the County budget as regular on-going positions. These temporary work assignments are ones that are anticipated at the outset to extend beyond the contract limitation for “temporaries” and are anticipated to work full time and meet the benefit eligibility threshold of eighty (80) compensated hours per calendar month. Work assignments and special conditions will end on the date specified in the letter of appointment, when the work is completed, or when employment is terminated unless an extension is specifically agreed to by the County and the Union.

2) Union Membership and Benefits Eligibility
Temporaries with benefits will join the Union in accordance with section 1.02 (Members in Good Standing) of the CDSCBA.

Upon completion of eligibility requirements, full-time temporaries with benefits will become eligible for health & welfare benefits in accordance with Article 6 of the CDSCBA and Washington Teamsters Welfare Trust (WTWT) rules. Life insurance will be available to the employee only.

Full-time temporaries with benefits will be eligible for paid leave in accordance with:
   - Article 4 – Holiday
   - Article 5 – Vacation
   - Article 7 – Sick Leave

3) Pay & Other Conditions of Employment
Full-time temporaries who have previously been employed as regular employees by the Jail will receive the current rate of pay at the step they were at when they left the County, but no higher than the top Corrections Deputy step. Qualified temporaries who have not been regular employees of the Jail will be paid at the entry step for Corrections Deputies.

Such temporary positions with benefits will NOT be eligible for other terms and conditions of employment under the CDCBA, including, but not limited to:
• Regular employment status
• Step increases
• Seniority
• Paid and Unpaid Leaves of Absence (other than those described above)
• Internal investigation notice
• Grievance procedures and arbitration
• Bidding for positions posted within the bargaining unit, except as allowed under Whatcom County Civil Service Commission Regulations & Rules and RCW Title 41

4) Posting
Positions under this Letter of Understanding will be filled in compliance with Whatcom County Civil Service Commission Regulations & Rules and RCW Title 41.

5) Regular Positions
If a current full-time temporary with benefits is selected to fill a regular, budgeted County position, the period served as a temporary with benefits will apply toward health and welfare benefits eligibility if there has been no break in service and coverage and if allowed by current benefit plans. If appointed to a regular position, vacation accruals will commence at the “0-1” year level.

6) Non-Precedent Setting
This Letter of Understanding will not be considered precedent setting to any other matter of concern raised by Teamsters or employees under the Corrections Deputies & Sergeants Collective Bargaining Agreement.

7) Termination
Either the employee or the County can end the employment relationship outlined in this Letter of Understanding without notice or reason.

8) Cancellation
Either party may cancel this agreement at any time following thirty (30) days written notice to the other.
ADDENDUM C
ADVICE OF ADMINISTRATIVE INVESTIGATION

Date:
To:
From:
Subj:

As required by section 2.07a (Due Process) of the Corrections Deputies & Sergeants Collective Bargaining Agreement this document notifies you that you are the subject employee in connection with an Investigation that has been authorized by the Sheriff.

An interview will be performed at a later date. Prior to the interview, you will receive an Advice of Investigative Interview providing you with the name of the investigating officer, the name and rank of the interviewer and the names of others who will be in attendance, the specific allegations and the policy violations. All involved parties shall be bound to the NOTICE provisions contained at the end of this Advisement.

☐ THIS IS A CLASS I ADMINISTRATIVE INVESTIGATION

☐ THIS IS A CLASS II ADMINISTRATIVE INVESTIGATION

This investigation is to determine the facts and possible violations of Sheriff's Office Policy/Procedure, Rules and Regulations regarding:

Alleged Acts of Misconduct:

Alleged Policy Violations:
NOTICE:
Effective immediately, you are directed to have no communication regarding this matter, either on-duty or off-duty, with any person including potential witnesses or persons who may be materially involved with the administrative investigation.

This directive means you are prohibited from communicating to these individuals about this matter by any means to include, but not be limited to: fax, telephone, mail, electronic messaging, in-person, person to person relay or any other form of communication.

Failure to comply with this directive shall be considered Insubordination, and may result in discipline up to and including termination.

You are not prohibited from discussing this matter with your Union representative, Union legal advisor, or your personal attorney.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. Adjudication or conclusion of the case is when the employee has been notified by the appointing authority of a finding.

Acknowledgment:
I certify that I have read this advisement form in its entirety (2 pages). I acknowledge that I understand the contents and that I have received a copy of this document.

______________________________
Printed name

______________________________   _______________________
Signature                         Date

Investigation Advisement made by:  ________________________ (Print name)

____________________   ____________   ______________________
Date                   Time                 Place
ADDENDUM D

ADVICE OF ADMINISTRATIVE INTERVIEW AS REQUIRED
BY SECTION 2.07c(1) (INTERVIEW ADVISEMENT) OF THE
CORRECTIONS DEPUTIES & SERGEANTS COLLECTIVE BARGAINING
AGREEMENT

Date:

To:

From:

Subj:

☐ YOU ARE THE SUBJECT EMPLOYEE

☐ YOU ARE A WITNESS EMPLOYEE

in connection with an Investigation that has been authorized by the Sheriff.

The Officer in Charge of this Investigation is: ______________________________

This interview is to be performed by ______________________________ (name, rank)
and also in attendance will be ______________________________, all of whom shall be
bound to the NOTICE provisions contained at the end of this Advisement.

☐ THIS IS A CLASS I ADMINISTRATIVE INVESTIGATION

☐ THIS IS A CLASS II ADMINISTRATIVE INVESTIGATION

A. This investigation is to determine the facts and possible violations of Sheriff’s Office
   Policy/Procedure, Rules and Regulations regarding:

Allegations:
For a Subject of the investigation, state the specific factual nature of investigation
For a Witness in the investigation, state the purpose of interview

Possible Policy/Rules/Regulations Violations include but are not limited to:
(this section is optional for notice to a witness employee)

Whatcom County Sheriff’s Office ADVICE OF ADMINISTRATIVE INTERVIEW Page 1 of 4
Deputy Initials
B. Failure to fully cooperate by truthfully answering all questions specifically and directly related to the matter under investigation and/or by providing investigators with all potentially relevant information will result in disciplinary action, which may include discharge from the Sheriff's Office.

C. All Class I Administrative Investigations shall be audio recorded. Class II investigative interviews are generally not recorded, but will be audio recorded at the request of either party. In a Class II interview, should one party object to the use of an audio recording then a transcript shall be made and be the only official record. Class II transcription expenses shall be at the expense of the requesting party.

D. You may request and obtain the presence of a Union representative during the investigatory interview (if no request is made there shall be no obligation of representative presence) provided that:

1. The Union representative shall not disclose the nature or content of the interview to any person, except as necessary for the Union to meet its duty of fair representation. The Union representative shall not obstruct the investigation, including revealing information to others except as permitted herein.

2. In addition to observing the interview, the Union representative, may reasonably participate in accordance with 1 above, by:
   a. Consulting with the employee before the interview begins;
   b. Reasonably raising valid objections and consulting with/advising the employee about a privilege she/he has the right to assert once questioning starts;
   c. Assisting the employee if questions are ambiguous or misleading by rephrasing the question or asking that the question be rephrased;
   d. Interceding if questions become harassing or intimidating; and
   e. Asking additional questions and seek to clarify responses.

3. During the investigatory interview, the Union representative may not;
   a. Interrupt if the employee is asked to give an initial version of events;
   b. Consult with the employee before he/she answers every question;
   c. Otherwise interfere with appropriate questioning by the investigator.

4. The Union representative may not be the spouse of the subject employee or a witness in the matter under investigation.

E. Employees subject to investigation shall be given at least two (2) hours notice before an interview. The failure of an employee subject to investigation to obtain a Union representative within a reasonable time, (generally two hours) is not an acceptable basis for unreasonably delaying an investigative interview with the understanding the interview shall be conducted at a reasonable hour, preferably at a time when the employee is on duty, or during the normal waking hours for the employee. Upon request, the employee will be granted a twenty-four (24) hour delay, unless the exigency of the investigation requires otherwise.
F. You have the right to suggest specific witnesses to be interviewed by the investigator. Upon notice of completion, you have the right to review and make corrections and/or additions to your transcript prior to the conclusion of the investigation.

G. Statements made to the investigator during an Administrative Investigation:

1. Will become part of the investigative file for the use of the Sheriff only to the extent permitted by law and subject to all legal protection available as a private confidential and privileged communication to the extent permitted by law; and

2. Will not be provided to other witnesses or interviewees involved in the investigation by the investigator such that the information is attributable to any individual identified by the investigator; and

3. Are not to be communicated to any person by you except to a Union representative if necessary to protect the legal rights of a witness or subject. You may consult with your private attorney.

4. Provided, that the referral of the summary of facts and findings to the involved employee’s chain of command, Human Resources, or the Prosecuting Attorney’s Office shall not constitute a breach of any privilege, privacy, or confidentiality; and provided further that should the involved employee choose to appeal the resulting personnel or disciplinary action and thus put at issue the merits of that action, statements given, and persons involved in the investigation may be asked by the Sheriff’s Office or the subject employee to give a sworn testimony regarding their involvement. If other disclosure is necessary, notice will be given to the Union.

H. The investigator will read the following warning into the recording at the start of the interview:

You are about to be questioned as part of an administrative investigation being conducted by the Whatcom County Sheriff’s Office. You are hereby ordered to fully answer the questions that are put to you that relate to information you possess and/or your conduct and/or job performance, and to cooperate with this investigation. You are required to answer questions relating to the performance of your official duties or fitness for duties. Your failure to answer truthfully and cooperate with this investigation can be the subject of disciplinary action in and of itself, including dismissal. The statements you make or evidence gained as a result of this required cooperation may be used for administrative purposes but will not be used or introduced into evidence in a criminal proceeding.
NOTICE:
Effective immediately, except as otherwise provided above, you are directed to have no communication regarding this matter, either on-duty or off-duty, with any person including potential witnesses or persons who may be materially involved with the administrative investigation.

This directive means you are prohibited from communicating to these individuals about this matter by any means to include, but not be limited to: fax, telephone, mail, electronic messaging, in-person, person to person relay or any other form of communication.

Failure to comply with this directive shall be considered Insubordination, and may result in discipline up to and including termination.

You are not prohibited from discussing this matter with your Union representative, Union legal advisor, or your personal attorney.

This directive will remain in effect until either the adjudication or conclusion of the administrative investigation. Adjudication or conclusion of the case is when the employee has been notified by the appointing authority of a finding.

Acknowledgment:

I certify that I have read this advisement form in its entirety (4 pages). I acknowledge that I understand the contents and that I have received a copy of this document.

________________________________________
Printed name

________________________________________
Signature

Advise ment made by: _________________________ (Print name)

Date _____________________ Time _____________ Place _____________________________________

Whatcom County Sheriff's Office ADVICE OF ADMINISTRATIVE INTERVIEW Page 4 of 4

Deputy Initials
<table>
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**TITLE OF DOCUMENT:**
Ordinance establishing WCC 5.20.105, Fireworks-Special Circumstances

**ATTACHMENTS:**

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

Ordinance establishing Whatcom County Code Section 5.20.105, Fireworks – Special Circumstances, to allow the County to prohibit the discharge of private fireworks during emergency conditions

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
7/7/2015: Introduced 7-0

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
ORDINANCE NO. _______

ESTABLISHING WHATCOM COUNTY CODE SECTION 5.20.105, FIREWORKS – SPECIAL CIRCUMSTANCES, TO ALLOW THE COUNTY TO PROHIBIT THE DISCHARGE OF PRIVATE FIREWORKS DURING EMERGENCY CONDITIONS

WHEREAS, heat, dry weather, and drought-like conditions can rapidly increase fire danger; and

WHEREAS, when conditions are extremely dry, Whatcom County government may find it necessary to issue a burn ban; and

WHEREAS, in 2015, while burn bans were in effect, numerous fires were started by fireworks in Washington State and lower British Columbia; and

WHEREAS, the Council finds it to be in the best interest of public health and safety to allow Whatcom County to issue a ban on the discharge of private fireworks when a burn ban is in effect and extenuating emergency conditions exist.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Whatcom County Code 5.20.105, Fireworks – Special Circumstances, is hereby established as outlined in Exhibit A to this ordinance.

BE IT FURTHER ORDAINED that this new Code section gives the County Executive, in coordination with the County Fire Marshal and the County Sheriff, the authority to place a ban on the discharge of private fireworks when warranted.

BE IT FINALLY ORDAINED that the effective date of this ordinance shall be August 15, 2016.

ADOPTED this _____ day of __________, 2015.

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

Civil Deputy Prosecutor  
Jack Louws, County Executive

( ) Approved    ( ) Denied

Date Signed: ____________________
EXHIBIT A
(WCC 5.20.105, FIREWORKS-SPECIAL CIRCUMSTANCES)

WHATCOM COUNTY CODE CHAPTER 5.20, FIREWORKS

5.20.105 Special Circumstances.

If/when Whatcom County issues a ban on outdoor burning or if/when other extenuating emergency conditions exist, all discharge of private fireworks may be prohibited until the ban is lifted or the emergency condition(s) are mitigated or cease to exist, at the discretion of and by order of the County Executive, in coordination with the County Fire Marshal and the County Sheriff.
TITLE OF DOCUMENT:
Discussion regarding potential property acquisition for the Flood Control Zone District

ATTACHMENTS:
None

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 regarding a potential property acquisition for flood purposes with Public Works staff. (Discussion of this item may take place in executive session (closed to the public pursuant to RCW 42.30.110(1)(b))
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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**SUBJECT:**
Amend contract with Van Ness Feldman, LLC for outside legal representation

**ATTACHMENTS**
Proposed contract amendment

**SUMMARY STATEMENT:**

| Related County Contract #: 201212020 | Should the Clerk schedule a hearing? (Y/N) N | Requested Date: |

This amendment increases the total consideration by $10,000 for a total of $160,000.

**RECOMMENDED MOTION (for final action):**

**COUNCIL ACTION TAKEN**

**Related File Numbers:**

**Ordinance or Resolution Number (this item only):**
WHATCOM COUNTY CONTRACT
INFORMATION SHEET

<table>
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<th>Whatcom County Council</th>
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<td>Contract Administrator:</td>
<td>Whatcom County Prosecutor</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Van Ness Feldman, Attorneys at Law</td>
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</table>

**Is this a New Contract?**

<table>
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<th>Yes</th>
<th>No</th>
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<td>Yes</td>
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| number(s): | 20121020 |

**Is this a grant agreement?**

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<th>Yes</th>
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<th>If yes, grantor agency contract number(s)</th>
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**Is this contract grant funded?**

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<th>Yes</th>
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<th>If yes, associated Whatcom County grant contract number(s)</th>
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**Is this the result of a RFP or Bid process?**

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<th>If yes, RFP and Bid number(s)</th>
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<td>Cost Center:</td>
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**Is this contract excluded from E-Verify?**

<table>
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<tr>
<th>No</th>
<th>Yes</th>
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| If no, include Attachment D Contractor Declaration |

**If yes, indicate qualified exclusion(s) below:**

| Contract less than $100,000. |
| Interlocal Agreement (between Govt.) |
| Professional services agreement for certified/licensed professional |
| Contract for Commercial off the shelf items (COTS) |
| Public Works Dept. - Local Agency/Federally Funded FHWA |

**Contract Amount:**

<table>
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<th>(sum of orig contract amt and any prior amendments)</th>
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<td>$150,000.00</td>
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**This Amendment Amount:**

| $10,000.00 |

**Total Amended Amount:**

| $160,000.00 |

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:** 12/14/15

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

1. Prepared by: KNF
2. Attorney reviewed: KNF
3. AS Finance reviewed: mdc
4. IT reviewed if IT related
5. Corrections made:
6. Attorney signoff:
7. Contractor signed:
8. Submitted to Exec Office
9. Council approved (if necessary)
10. Executive signed:
11. Contractor Original Returned to dept; 
12. County Original to Council

**Date**: 7/14/15 [electronic]

**Date**: 7/14/15 [electronic]

**Date**: 7/14/15 [electronic]

**Date**: 

**Date**: [summary via electronic; hardcopies]

**Date**: 

**Date**: 

**Date**: 

181
Amendment No. 8
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 $160,000.00.

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, LLP have executed this Amendment on the date and year below written.

DATED this _______________ day of _______________, 2015.

CONTRACTOR:

__________________________
Jay Derr, Attorney at Law

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this _____ day of ______________, 2015, 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:

[Signature]
Prosecuting Attorney  7/14/15
Date

Approved:
Accepted for Whatcom County:

By: ________________________________
    Jack Louws, Whatcom County Executive

STATE OF WASHINGTON  )
                        ) ss
COUNTY OF WHATCOM   )

On this __________ day of __________________, 2015, 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:

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

CLEARANCES

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TITLE OF DOCUMENT:
Behavioral Health Revenue Advisory Committee (BHRAC) Quarterly Report to County Council

ATTACHMENTS:
Memo to County Executive
Drug Court Report

SEPA review required? ( ) Yes ( ) NO
SEPA review completed? ( ) Yes ( ) NO
Should Clerk schedule a hearing? ( ) Yes ( ) NO
Requested Date:

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The Honorable Judge Snyder and Ms. Ahney King, Therapeutic Courts Coordinator, will report on the County’s Drug Court Program, fulfilling the requirement of a quarterly report to County Council from the Behavioral Health Revenue Advisory Committee.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
Memorandum

TO: JACK LOUWS, COUNTY EXECUTIVE
FROM: Bill Elfo, Chair
DATE: July 10, 2015
RE: Quarterly Report of Behavioral Health Revenue Advisory Committee

The Behavioral Health Revenue Advisory Committee will present a quarterly report of the Behavioral Health Fund activities, collected by the 1/10th of 1% sales tax, to the County Council on July 21, 2015. The focus of this quarter's report is on the Whatcom County Drug Court which is a treatment component of the multi-faceted continuum of care model, entitled PITA (Prevention, Intervention, Treatment and Aftercare).

Drug Court is a specialty court that diverts people with a drug felony charge from incarceration and into treatment and recovery support. The Behavioral Health Fund contributes $295,000 in 2015 to support this program. Additional revenue support comes from client weekly fees of $15, and two separate grants.

The Drug Court program is designed to provide intense judicial oversight, treatment for addiction, and connection to social services. The goal of the program is to reduce or prevent incarceration, and assist our addicted and criminal population to become productive members of society. To help reach these goals, the program requires clients to obtain a GED and/or secure stable employment. The program length runs from 12 to 18 months.

We have two staff members with their Masters Degrees and CDP (Chemical Dependency Professional) license that work one on one with our clients. Currently, 40 adults are participating in Drug Court, all of which would be incarcerated if not for our program. Clients are offered a deferred prosecution, and if they successfully meet all requirements for "graduation" from Drug Court, their felony charges are dismissed. The Whatcom County Drug Court staff work closely with our community and treatment agencies to ensure that our clients are getting the care that they need. In the last year we have improved our program by implementing individualized plans to meet the unique needs of each client, thereby increasing their chance for long term success.
Whatcom County Drug Court

Currently in the Whatcom County Drug Court we have 40 clients. We have a capacity of 80. Our primary goal in Drug Court is to help clients become productive members of society. We require that clients get a GED or High School Diploma prior to graduation. Further we require clients to be enrolled in college or working full time in order to graduate. We require Chemical Dependency treatment, and Mental Health treatment when needed. Our clients are subject to random urinalysis from daily to weekly depending on their phase in the program.

Our team includes Judge Snyder; Angela Anderson, Public Defender’s Office; Dave Graham, Prosecutor’s Office, Ahney King, Therapeutic Courts Coordinator; and Glenn Hoyt, Drug Court Case Manager. Drug Court meets weekly.

Changes in Drug Court

Whatcom County Therapeutic Specialty Courts got a new coordinator in December 2013, her name is Ahney King. Since she started we have been working to better the Drug Court program. We have made our program more individually tailored versus the one size fits all type of program. We have made many changes in the interest of helping our clients become productive members of our community.

One of the biggest additions to the Whatcom County Drug Court program is the Mentorship Program. Our Mentorship Program was started by July 2014 graduate Dan Romaine. We have several graduates from as far back as 2002 that have come back to reach out to our current clients. This program has dropped our relapses in half. It is designed to support the client in learning how to live a sober life.
We recently audited our files back seven years and searched criminal records to find the recidivism rates for our clients. We are pleased to be able to share those results with you.

Comparatively, the nationwide recidivism rates for Drug Court graduates, that have remained felony free is 75%. It is shown for every $1.00 spent in a Drug Court the taxpayer saves $3.36 in criminal justice costs alone.


<table>
<thead>
<tr>
<th>Total Recidivism, last 7 years</th>
<th>Crime Free</th>
<th>No Felonies</th>
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<tr>
<td># DC Clients Success</td>
<td>161</td>
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<td>269</td>
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<tr>
<td>Percent</td>
<td>60%</td>
<td>73%</td>
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What our graduates are doing:
- Paralegals
- Chemical Dependency Counselors
- Mental Health Counselors
- Veterinary Techs
- Welding
- Instrumentation
- Own a personal business
- Business Management
- Firefighters
- Registered Nurses
- Computer Technology
- Mentorship Program

Our next graduation is September 3rd at 2:30 pm in Judge Snyder’s courtroom, we would love for you to join us in this celebration.
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 10:34 a.m. in the Civic Center Garden Level Conference Room, 322 Commercial Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Satpal Sidhu, Barry Buchanan, Ken Mann, and Carl Weimer
Absent: Rud Browne and Pete Kremen

SURFACE WATER WORK SESSION (AB2015-024)

Watershed Planning Unit Update

Gary Stoyka, Public Works Department, reported on the Planning Unit and Joint Board activity. They are choosing a facilitator for the Planning Unit, focusing on their work plan and Council resolution 2015-004, and discussing how to interact with the Council at the next work session on April 21.

Weimer stated he would like to hear from the Planning Unit members what their status is and what their plan is for moving forward.

Robin Dexter, Planning Unit Environmental Caucus Representative, stated a Planning Unit subcommittee is working on follow-up to the Council’s resolution in terms of the Planning Unit work plan and discussing the option of becoming an advisory committee. They are prioritizing where the Planning Unit should go in the future.

Weimer stated he would like to know if the Planning Unit is willing to become an advisory committee and asked why the Council would want an advisory committee in addition to the Planning Unit. Dexter stated the Planning Unit doesn’t want to do work that’s been done already. Most of the subcommittee members want to be an advisory committee.

Brenner stated the Council can just ask the Planning Unit for information without changing it into an advisory committee. They don’t need to label it. Dexter stated there is concern that the Planning Unit is not an advisory committee. Some of the government caucuses feel that the cost of the Planning Unit must be paid by the County. The subcommittee would like to encourage the County to continue to fund their work.

Joint Board
Stoyka stated the Joint Board is discussing its future. It’s running out of money and is at the end of the Lower Nooksack Strategy, which is its five-year work plan. The Joint Board will bring a presentation to the Council in April.

Brenner stated anything the Joint Board does should first come to the Council for approval.

Stoyka stated the groundwater modeling project is moving forward, but needs funding.

Coordinated Water System Plan Update

Stoyka stated work is proceeding well with the Water Utility Coordinating Committee (WUCC).

Recent Flood Damages and New Projects

Brenner stated she would like to know which members of the Flood Control Zone District Advisory Committee were present when the committee voted on the plan.

Paula Cooper, Public Works Department, stated she would provide that information. She submitted and read from a presentation (on file) on the 2014-2015 winter damages.

Buchanan asked what the County is doing about the Marine Drive bridge and log jam.

Roland Middleton, Public Works Department, stated they are maintaining by pulling logs off the pier area. The point bar and sand have built an island in front of Marine Drive. The Lummi Nation is asking the County to dredge the river, because their water intake for the fish hatchery is there. The County will make sure the logs are removed from the area, but the County can’t dredge the river for them. The Lummi Nation will need to work with the Army Corps of Engineers for that project. It will continue to accrete there. Their intake is essentially in a sand bar now. Previous work that the County did helped them out and helped with the County bridge. Now, removing the logs on top doesn’t address their problem. The County is working with them to move their intake to a different location in the river. They can hang the water pipe on the bridge. The County can’t dredge the Nooksack for them.

Brenner asked when the County can dredge again. The County had to stop dredging because Canada stopped dredging. Now Canada is dredging again. Middleton stated that’s up to the Army Corps of Engineers. Staff is beginning to talk to them about it.

Brenner stated the County should be allowed to do small dredging projects when necessary. Cooper stated they need more scientific study and an environmental impact study (EIS). Pierce County is doing that work. They have their U.S. Geologic Survey (USGS) study done, and have allocated money for their EIS. They need to understand the river sediment before moving into that with any hope.

Brenner asked if the County can use any of the studies that Canada did for this area. Cooper stated every study is river-centric.
Brenner stated they’ve done much preliminary work. Their fish runs are better than ever before. Cooper stated let Pierce County, which has a lot more money, push through the process and see how far they get.

Cooper asked if the Board of Supervisors approves of her preparing a supplemental budget for these projects.

_The Committee concurred with moving forward._

**Charel Terrace-Birch Point Drainage Issue Update**

Kraig Olason, Public Works Department, submitted and read from a presentation on issues from the BBWARM (on file).

Mann asked who owned the property at the time the Birch Point ditch was created. Olason stated Trillium owned the 20 acres that the ditch was dug across. He doesn’t know if Trillium knew about the ditch.

Brenner stated she disagrees that Trillium didn’t know.

Olason stated the couple who bought the property from Trillium still owns it.

Weimer asked if County policy can change so they do not have to sue the property owner and instead have a policy requiring environmental impact studies, for example.

Brenner stated they just didn’t do it legally.

Olason stated the question is what requirements they violated. There was no plan they violated.

Weimer asked if the County’s only option is to sue for whatever they violated. Olason stated that’s correct, at this point.

Weimer asked if the County is making it clear to them that the County intends to sue for damages if they don’t cooperate. Olason stated they can’t sue for damages until something is wrecked.

Brenner stated it’s already wrecking people’s properties. Olason stated he doesn’t know that. Charel Terrace has performed well the last couple of years. The storm in January was at the edge of what it could handle. Since the County fixed Charel Terrace, it’s been fine. It’s not been fine at the State Department of Natural Resources (DNR) outlet. This relieves some of that pressure.

Brenner stated she attended both meetings that DNR also attended. DNR seemed to want to work with Whatcom County. The County should send an ultimatum to the new owners. Olason stated the County can file its letters on the title. Someone who buys the property will be aware of it.

Mann stated they should do that.
Olason continued his presentation on the pre-design study.

Mann asked what makes the truss-supported pipe option more secure. Olason stated they are far enough back to be in a more stable portion of the hillside. The question is how long it will stay stable. At the time this is designed for construction, they will have to have geo-tech work done and look more specifically at how far back they need to go.

Mann asked at what point will the Council choose the design strategy. Olason stated the project they just finished was to establish these alternatives. The staff’s preferred alternative is the anchor secured pipe based on price and on the reality there will be a lot of movement. It’s not as hard to fix as a truss system. It looks to be a more durable product. It’s amazing how much contortion the existing pipe has handled over the last few years, and it still functions.

Mann asked if that option can be adapted in the future if they lose a lot of land in a year. Olason stated they can. The truss design included a stairway, which would be a nice access to the beach. The problem is that it’s an active zone of wave activity and slides.

Weimer asked how much time people have on their DNR leases. Olason stated the DNR leases were for approximately 50 years. Some of them are coming due. A lot of people are renegotiating right now.

Brenner stated she got the impression that most people want the option with the flexible pipe.

Weimer asked if they are talking to the property owners about sharing the costs. Olason stated he has not got any clear statements from anyone renting the DNR lots that they want to pay for it.

They tried to put together a funding plan that included a variety of factors, primarily about the contributors to the water system. People right along the road aren’t contributing much water to the system. It’s the big property and the road. If there was an imminent development, there would be more interest in participating.

Mann asked if all the land on the water side of the road is leased land. Olason stated most of it is leased land. He indicated the location of the lease land.

Olason stated the sub-watershed plans are available and would eventually be added to the comprehensive stormwater plan. They provide the inventory and detail about the capital projects they’ll be working on. It adds much additional information to the comprehensive stormwater plan, and it’s what they rely on for doing the capital plan.

Jerry Scheller, Tetra-Tech, submitted and read from a presentation (on file). The information gathered during the inventory of stormwater facilities will go into the hydraulic models used to route flows through the system. That helps identify capacity issues.
Brenner asked if the benefit to the community must include all factors, or just one factor, such as severity of flooding. Scheller stated they assign points for each factor. Some factors get more points than other factors.

Brenner stated she’s surprised that aesthetics is a factor. Scheller stated it is, but it has a low point value. He continued to describe planned improvements.

Weimer asked if all these areas are in the national pollution discharge elimination system (NPDES) permit area. Olason stated more developed areas are included, but not the fringe areas.

Weimer asked if these plans are coming to the Council for approval. Olason stated they eventually will, to be incorporated into the comprehensive plan. They will forward these two plans first, and the others will follow.

Weimer asked if BBWARM is using this information to prioritize. Olason stated it is.

Brenner asked if they can get an agreement to not require annual inspections since these will be new projects. Olason stated the general inspection requirement is for every other year. He doesn’t think they care whether or not the infrastructure is new.

National Pollutant Discharge Elimination System (NPDES) Phase II Permit Annual Report

Cathy Craver, Public Works Department, submitted and read from a presentation (on file).

Brenner asked if Ms. Craver will have a list of providers and consultants to do stormwater facility work. Craver stated jurisdictions have shied away from supporting specific groups. However, they will work on outreach this year to provide a list similar to the wetlands consultants list. The County doesn’t endorse any of the providers. A list of people that do vactoring, landscaping, and other work will be on the website. She concluded the presentation.

ADJOURN

The meeting adjourned at 12:23 p.m.

The Council approved these minutes on ________________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL

WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk Carl Weimer, Council Chair
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 6:15 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Ken Mann, Satpal Sidhu, Carl Weimer, Rud Browne and Barry Buchanan.

Absent: Pete Kremen.

SPECIAL PRESENTATION

1. COUNTY EXECUTIVE JACK LOUWS TO PRESENT PROGRESS AND DEVELOPMENTS OF THE NEW JAIL PROJECT (AB2015-047)

Jack Louws, County Executive, submitted and read from his presentation (on file).

Brenner asked for clarification on the Ferndale estimated annual cost. Louws stated he will submit corrected numbers.

Browne asked what alternative jail space options Thurston and Kitsap Counties have that make their jail populations low. He asked why Whatcom County wouldn’t have the same options. Louws stated the City of Olympia, which is in Thurston County, has its own jail.

Browne asked if that’s an alternative County facility rather than an alternative type of facility. Louws stated the Cities in those counties have options to put their misdemeanants in space other than in the County jails.

Browne stated it’s not a different type of treatment space. Louws stated it’s just a different jail.

Mann asked if the Yakima County jail costs include the jail beds they were trying to sell and the King County prisoners they are housing. Louws stated the Yakima jail is purposefully oversized to sell beds for other jurisdictions.

Weimer asked if they’ve looked at the actual bonding capacity and if there is capacity to develop alternative jail services. Louws stated the bond payments are the problem. They would need dedicated funds for bond payments. If the County sells the Irongate facility, it should use the money for a triage facility. The County can develop a triage facility concurrent with the construction of this new jail facility.
Buchanan stated the hospital indicated it would be interested in partnering with the County on a triage facility. He asked if the County has discussed it with the hospital.

Anne Deacon, Health Department, stated some discussions are preliminary. The hospital may have land to donate or buildings to lease. That is the extent of the discussions so far.

Buchanan asked if there is a plan to pull those triage facility options into this jail proposal. Louws stated there isn’t such a plan in the current timeframe. However, he is committed to doing the right thing for a triage facility, which would have to be approved by various agencies. The proposal for the two-tenths of one percent sales tax doesn’t include another $10 million for the triage facility project. A triage facility would have to be done with funding other than the sales tax. Get this jail facility underway, and then figure out how to develop a triage facility.

Brenner asked if they are double-counting the statistics for Thurston and Kitsap Counties, if they have other jail beds available. Louws stated their numbers per thousand are low, because they have other options within the community. If they added all the other options together, the statistic would show they have more beds per thousand that this chart shows. Brenner stated she would like to know how much jail space they have, including their options.

Mann stated he appreciates the work that staff have done. The County needs a new facility. The size sounds right. However, they also need programs and staff to reduce incarceration and recidivism rates. Putting people in jail is expensive. The Council has been asking for those programs throughout the process, but they aren’t in the proposal. He’s reluctant to go forward with a program this big when it doesn’t include a central element the Council has been asking for. Louws stated the first program he put forward to the Cities included those programs. The Cities indicated they have financial struggles. Trying to broker a deal that works for everyone required a modified proposal. The capacity of the two-tenths sales tax is down, because it gives the County the money to build the facility and a cushion of cash necessary to operate a new jail facility. They aren’t able to do everything they would like with the two-tenths sales tax. Whatcom County and the Cities can develop viable programs, and the City police officers will have viable alternatives. They should ask the City of Bellingham to partner with the County on those programs. He’s happy to have suggestions for funding $10 million for a triage facility.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 7:07 p.m.

The Council approved these minutes on _____________, 2015.
Council Chair Carl Weimer called the meeting to order at 7:17 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Ken Mann, Satpal Sidhu, Carl Weimer, Rud Browne and Barry Buchanan.

Absent: Pete Kremen.

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced the Council made appointments to fill vacant positions on the Council’s Finance and Administrative Services Committee and Natural Resources Committee, and appointment of a Council representative to serve on the Bellingham International Airport Advisory Committee and the Emergency Medical Services Oversight Board (AB2015-021) during the Special Committee of the Whole 9:30 a.m. meeting.

He also announced there was discussion with Senior Deputy Prosecutor Elizabeth Gallery regarding pending litigation, Ventres v. Whatcom County Jail (AB2015-018) in executive session during the Committee of the Whole meeting.

Mann moved that the Council affirmatively finds that the official or employee must have been acting in a manner in which the County had an interest, that the official or employee must have been acting in the discharge of a duty imposed or authorized by law, and the official or employee must have acted in good faith.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)

Nays: None (0)

Absent: Kremen (1)

Weimer announced that County Executive Jack Louws presented progress and developments of the New Jail Project (AB2015-047) during the Special Committee of the Whole 6:15 p.m. meeting.

SPECIAL PRESENTATION
1. **SHERIFF’S OFFICE TO PRESENT DISTINGUISHED CITIZENSHIP AWARD TO MR. GARY SPURLING (AB2015-017)**

Bill Elfo, County Sheriff, presented the award to Gary Spurling for his service to saving the life of another without regard to his own safety.

2. **BEHAVIORAL HEALTH REVENUE ADVISORY COMMITTEE 2015 1ST QUARTERLY REPORT TO COUNTY COUNCIL (AB2015-117)**

Chris Phillips, Peace Health St. Joseph Medical Center and Behavioral Health Revenue Advisory Committee Vice-Chair, stated the focus of the presentation is on the jail behavioral health program. He described the history of the tax funds and goals to provide prevention, intervention, treatment, and aftercare (PITA). Jail treatment is necessary. Treatment for those who don’t belong in jail is also necessary. Create crisis services to divert people from unnecessary jail services. They are committed to funding across the PITA continuum.

Weimer asked if there is a certain amount or percentage being set aside each year for the triage facility from the behavioral health fund. Phillips stated the $3 million set aside reflects the commitment of the committee to the current triage center. There is no formula for using the funds on an annual basis.

Weimer asked if the committee has considered committing any of that behavioral health money to bond capital expenses for a new facility. Phillips stated that is beyond their capacity to do.

Jackie Mitchell, Health Department, stated they’ve done a lot of work on the jail behavioral health program. They’ve developed one entire program with a team of highly collaborative people. She read from the report beginning on Council packet page 412.

In the future they need a confidential treatment space and an additional staff person for case management and reentry. The leader for the jail behavioral health program team saw the jail model, which includes mental health services programming, and was very enthusiastic about what they can do with that kind of space. They also need to enhance the triage facility and programming space and have an effective place to take people who need treatment, but don’t necessarily need to go to jail. They also need additional treatment capacity, particularly for chemical dependency. Much of that will be addressed when the behavioral health organization takes over the chemical dependency services in April 2016. They will be able to set their own rates and pay providers well enough to stay in the business. Now, they don’t really pay the cost of the services. They could also use supported housing, especially for people with addictions. They would like to reestablish addiction services in the alternative work center.

Weimer stated there’s been a lot of discussion about the Council’s desire for more diversion programs and jail alternatives. That doesn’t take away from how much the Council appreciates what the Health Department and others are already doing. Mitchell stated she’s never seen a full sequential service model in the years she’s worked for the County, but they are closer than they’ve ever been.
Brenner stated she understands there have been few problems with the current jail alternative center. She would like the Behavioral Health Revenue Committee consider expanding on what they have at that facility in a positive way for the neighborhood and the people who use the facility. It would be less expensive than building a new facility. Mitchell stated she would also like to repurpose that building for behavioral health services.

Browne stated he likes the information provided about the sequential intercept model. There are a lot of questions on what the County is doing to divert people from entering jail in the first place and also to prevent recidivism. He asked that staff map out the different programs the County has. He would like all the pieces put together in a map that shows the County’s effectiveness in diverting people from going into the jail in the first place and how effective they are at preventing recidivism. If the staff were to create such a map, it would be nice to include numbers, such as the drug court results and outcomes or the expected results from the mental health court. It would be nice to know also how much money is being saved by those programs. Those programs are more cost-efficient than incarcerating someone. He asked staff to also identify the limitations caused by the current jail from staff doing their jobs properly and what the expected outcomes will be with the new jail. The community is struggling to really put all these pieces together. While the community may have other questions, that information will be helpful to him. Mitchell stated most or all the programs include program evaluation and outcomes. It takes an entire set of services, not just the jail program, to reduce recidivism. Doing any kind of cost analysis would be expensive and require funding. The Health Department would probably have to hire someone to develop that information. However, staff can map out the programs.

Browne stated he’s happy to talk to staff outside of the meeting about the information he would like to have.

Anne Deacon, Health Department, stated they design programs based on evidence-based best practices. They research cost benefit analyses. If they carry out the programs as designed, they will realize a cost reduction. They have statistics for a number of the programs. Their job is to operate according to the fidelity model to realize those outcomes. Some contracts include performance measures that are included in the quarterly reports.

Browne stated it would initially be very helpful to have the published standards and expectations. Maybe they need to provide funding later on, but he likes performance metrics. Track the County’s outcomes to the national standards. Deacon stated prevention and intervention programs are difficult to prove what is prevented. They rely on national models.

MINUTES CONSENT

Buchanan moved to approve Minutes Consent items one through four. Item five is withdrawn from the agenda.

The motion carried by the following vote:

Ayes: Brenner, Mann, Browne, Buchanan, and Weimer (5)
Nays: None (0)
Absent: Kremen (1)
Abstains: Sidhu (1)

1. BOARD OF HEALTH FOR FEBRUARY 3, 2015

2. REGULAR COUNTY COUNCIL FOR FEBRUARY 10, 2015

3. COMMITTEE OF THE WHOLE FOR MARCH 3, 2015

4. REGULAR COUNTY COUNCIL FOR MARCH 3, 2015

5. REGULAR COUNTY COUNCIL FOR MARCH 17, 2015

PUBLIC HEARINGS

1. ORDINANCE ALLOWING MARIJUANA PRODUCTION, PROCESSING AND RETAILING AS AUTHORIZED BY WASHINGTON STATE INITIATIVE 502 (AB2015-099)

Nick Smith, Planning and Development Services Department, stated his staff memo did not include those changes from the Council two weeks ago, but the text and ordinance does include those changes. He described those changes.

Mann asked if the 1,000-foot setback from community centers and churches is being changed. Smith stated they propose changing the way that measurement is taken. The current code is written so the distance is measured from the walls of a proposed marijuana production and processing facility to the property line of a parcel on which a community center is located. At the time, the Council intended to match the State law for similar uses in the County Code, such as for community centers and churches. However, the State liquor control board changed that setback measurement after the Council adopted the interim ordinance. It is now taken from the property lines of the two uses. Staff proposed to change the County code to match the State regulations.

Brenner asked if the setbacks are from building-to-building or from property line-to-property line. Smith stated the 300-foot setback from residences is measured building-to-building. The setback from a community center is measured the way he just explained it.

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

Frans Luit, Terrell Creek Landing Condominium Association Board President, stated their building is located in Birch Bay behind the C Shop, which many children visit for candy and ice cream. They are a mix of condominium and commercial spaces. They are concerned about potential retail stores wanting to use their commercial space at their mixed use facility. Ban sales of marijuana in a resort commercial zone. Their concerns include children living in and visiting the residential community. There are established businesses already that cater to children in the area. They are also concerned about potential smells from a marijuana business and illegal smoking in adjacent areas that will waft to the condo balconies. The property values will be affected. The most negative effect on children is bad for the community in general. Retail marijuana and similar substances aren’t compatible with combined resort commercial use.
Patrick Alesse stated he voted for legalizing marijuana because he didn’t want kids in jail who did something dumb, but he also doesn’t want it near his business at The C Shop. People may want to come down to Birch Bay from British Columbia just to smoke. They aren’t trying to stop the business altogether. Just ban it in resort commercial areas, or ban it from 1,000 feet within Birch Bay Drive.

Larry Helm stated a medical marijuana shop has opened in the same building as his gun shop, and they’re starting to smell it. He will probably have to move his business.

Hearing no one else, Weimer closed the public hearing.

Browne moved to adopt the ordinance.

Brenner stated this proposal eliminates the use in resort commercial zones.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

2. RESOLUTION AUTHORIZING THE SALE OF COUNTY TAX TITLE PROPERTY BY NEGOTIATION - REQUEST NO. 2015-01 (AB2015-091A)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Brenner moved to approve the resolution. She asked if the County does retain rights-of-way.

Tyler Schroeder, Executive’s Office, stated the County would not keep any right-of-way access. There isn’t any right-of-way on this property.

Browne asked if this will not provide access to any other property owner who will lose access. Schroeder stated it will not.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

3. RESOLUTION AUTHORIZING THE SALE OF COUNTY TAX TITLE PROPERTY BY NEGOTIATION - REQUEST NO. 2015-02 (AB2015-092A)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Mann moved to approve the resolution.

Brenner asked if the County owns any rights-of-way or easements on this property.
Joe Rutan, Public Works Department, stated no right-of-way is included that he is aware of.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)

**Nays:** None (0)

**Absent:** Kremen (1)

**OPEN SESSION**

The following people spoke:

- Larry Helm spoke about grants the County accepts without Council review or public review by affected owners and about County funds that are available for use for the County jail.
- Ken Carrasco, Northwest Straits Marine Conservation Foundation and Marine Resources Committee, spoke about an upcoming oil spill preparedness workshop.
- Wendy Czopp, Represent Whatcom County, spoke about proposed anti-corruption legislation at the State and federal levels.
- Wendy Harris spoke about the Green Links grant and the proposed new jail.
- Joy Gilfillen spoke about jail planning and needs assessment.
- Irene Morgan, Restorative Community Coalition, submitted handouts (on file) and spoke about restorative justice plans and jail planning.
- Patrick Alesse spoke about closing an alley at Birch Bay Drive.
- Ray Baribeau spoke about the Behavioral Health Advisory Committee quarterly report, jail planning, and alternative jail programs.
- Theresa Erickson spoke about jail planning, jail alternatives, and creating a safe environment for jail employees.
- Jon Mutchler spoke about recent improvements at the Tennant Lake boardwalk.

**CONSENT AGENDA**

Browne reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through nine.

Brenner withdrew item five.

The motion to approve Consent Agenda items one through four and six through nine carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)

**Nays:** None (0)

**Absent:** Kremen (1)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND HELION SOFTWARE, INC., FOR THE ACQUISITION, IMPLEMENTATION, AND MAINTENANCE OF A
REPLACEMENT DOCUMENT RECORDING AND IMAGING SYSTEM FOR THE
AUDITOR’S OFFICE, IN THE AMOUNT OF $78,500 (AB2015-105)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND FOSTER PEPPER
PLLC TO PROVIDE LEGAL SERVICES RELATED TO THE LAKE WHATCOM TMDL
(TOTAL MAXIMUM DAILY LOAD), IN THE AMOUNT OF $9,622, FOR A TOTAL
AMENDED CONTRACT IN THE AMOUNT OF $39,122 (AB2015-106)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A
CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND GEOTEST
SERVICES, INC., FOR A CHANGE IN SCOPE TO ADD CONSTRUCTION FIELD
INSPECTION SERVICES TO THE MATERIAL TESTING AND GEOTECHNICAL
SERVICES CONTRACT (AB2015-108)

4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO AWARD BID
#15-06 TO THE LOWEST BIDDER, WRS, AND ENTER INTO A CONTRACT FOR
2015 HOT MIX ASPHALT PRELEVEL AT VARIOUS LOCATIONS, IN THE
AMOUNT OF $1,304,681.14 (AB2015-109)

5. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO AWARD BID
#15-08 TO THE LOWEST BIDDER, MCASPHALT INDUSTRIES, AND TO ENTER
INTO A CONTRACT FOR THE PURCHASE OF ASPHALTIC EMULSIONS FOR THE
COUNTY’S CHIP SEALING PROGRAM, IN THE AMOUNT OF $1,120,000
(AB2015-110)

Browne reported for the Finance and Administrative Services Committee and
moved to approve the request.

Brenner stated the County uses too much chip seal on asphalt in areas where it isn’t
needed. She supports applying it on hills and curves where safety is a concern, but not for
straight, flat areas. It’s bad for vehicles. It doesn’t save money. The County spends a lot
on chip seal. Review with other experts whether it’s cost effective.

The motion carried by the following vote:
Ayes: Mann, Sidhu, Browne, Buchanan, and Weimer (5)
Nays: Brenner (1)
Absent: Kremen (1)

6. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO AWARD BID
#15-14 FOR THE PURCHASE OF TWO 1-TON CAB AND CHASSIS TRUCKS
WITH 2-3 YARD DUMP BODY TO THE LOWEST BIDDER, LEGACY FORD, IN
THE AMOUNT OF $80,941.75 (AB2015-111)

7. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO AWARD BID
#15-15 FOR THE SUPPLY OF TWELVE ½-TON EXTENDED CAB FOUR-WHEEL
DRIVE PICKUPS TO THE LOWEST BIDDER, BLADE CHEVROLET, IN THE
AMOUNT OF $353,479.98 (AB2015-112)
8. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF AN ADDITIONAL VACTOR TRUCK, USING THE WASHINGTON STATE CONTRACT, IN THE AMOUNT OF $467,217.69 (AB2015-113)

9. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE PURCHASE OF LIGHT BARS AND ACCESSORIES, USING THE OREGON STATE BID PROCUREMENT LIST FROM VENDOR MCLoughlin & EARDLEY CORPORATION, IN AN AMOUNT UP TO $100,000 (AB2015-114)

OTHER ITEMS

1. ORDINANCE AMENDING THE 2015 WHATCOM COUNTY BUDGET, THIRD REQUEST, IN THE AMOUNT OF $304,500 (AB2015-098)

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

2. RESOLUTION APPROVING THE 2015 WHATCOM COUNTY ECONOMIC DEVELOPMENT STRATEGY (CEDS) AND AMENDED APPENDIX (AB2015-103)

Browne reported for the Finance and Administrative Services Committee and moved to approve the resolution. He stated a section in the resolution refers to the importance of their relationship with British Columbia businesses. The recent work by the Port of Bellingham started to quantify that a significant amount of manufacturing jobs in Whatcom County are actually a result of Canadian companies that are looking for a foothold in the United States (U.S.) market. The report speaks to this. It’s important for the County to reach out to those businesses and encourage more businesses to do so.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

3. RESOLUTION AMENDING RESOLUTION NO. 2015-067, APPROVING A SALARY SCHEDULE AND POLICIES FOR UNREPRESENTED WHATCOM COUNTY EMPLOYEES, EFFECTIVE JANUARY 1, 2015 THROUGH DECEMBER 31, 2016 (AB2015-104)

Browne reported for the Finance and Administrative Services Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
4. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A GRANT AGREEMENT BETWEEN WHATCOM COUNTY AND THE WASHINGTON STATE MILITARY DEPARTMENT FOR STATE AND FEDERAL FUNDING FOR VOLUNTARY ACQUISITION OF FLOOD-PRONE RESIDENTIAL PROPERTIES IN MARIETTA AND THE REMOVAL OF ALL ASSOCIATED STRUCTURES, IN THE AMOUNT OF $379,750 (AB2015-107)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Browne reported for the Finance and Administrative Services Committee and moved to approve the request.

Brenner stated she gives credit to the administration, because this is very impressive. It’s voluntary, and it’s to protect the area. They are finally getting State money to help out. She’s happy about that.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

5. RESOLUTION TO CONSIDER VACATING A PORTION OF DELTA LINE ROAD (AB2015-115)

Brenner reported for the Public Works, Health, and Safety Committee and moved to approve the resolution.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

6. APPROVAL OF AN EXTENSION REQUEST FILED BY BRAD SWANSON FOR MAYFLOWER EQUITIES, INC. – MONTEREY HEIGHTS (AB2015-122)

This item was withdrawn from the agenda.

7. REQUEST CONFIRMATION OF EXECUTIVE’S APPOINTMENT OF JON HUTCHINGS FOR PUBLIC WORKS DIRECTOR PURSUANT TO WHATCOM COUNTY CHARTER SECTION 3.23, EFFECTIVE APRIL 27, 2015 (AB2015-102)

Jack Louws, County Executive, stated he asks for the Council’s confirmation of Dr. Hutchings to the Public Works Director position. He described Dr. Hutchings’ background.

Buchanan moved to confirm the appointment.

John Hutchings stated he’s honored to return to Whatcom County.
Brenner stated she’s glad Dr. Hutchings is back.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

COUNCIL APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. APPOINTMENT TO FILL A VACANCY ON THE SUMAS/EVERSON/NOOKSACK FLOOD SUBZONE, APPLICANT: CHUCK GELWICKS (AB2015-089)

(Council acting as the Whatcom County Flood Control Zone District Board of Supervisors.)

Browne moved to nominate and appoint Chuck Gelwicks.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)

Browne stated there are two other vacancies on that committee, as well.

INTRODUCTION ITEMS

Brenner moved to accept the Introduction Items, including the substitutes for Introduction Items one and seven.

Browne withdrew item five.

The motion to accept Introduction Items one through four, six, and seven carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)
Nays: None (0)
Absent: Kremen (1)


2. ORDINANCE AUTHORIZING AMENDMENT NO. 2 TO ORDINANCE 2014-11, ESTABLISHING THE DAKOTA CREEK BRIDGE NO. 500 PROJECT FUND AND BUDGET (AB2015-120)
3. ORDINANCE AUTHORIZING AMENDMENT NO. 1 TO ORDINANCE NO. 2014-012, ESTABLISHING THE SLATER ROAD INTERSECTIONS, IMHOFF ROAD AND FERNDALE ROAD, CRP NO. 910003 PROJECT BUDGET (AB2015-121)

4. ORDINANCE GRANTING SOUND INTERNET SERVICES, INC., A NON-EXCLUSIVE FRANCHISE FOR THE PROVISION OF TELECOMMUNICATIONS SERVICES (AB2014-201A)

Browne stated this effectively eliminates the parking on the street for some distance, he would like to request that the affected residents be notified by mail that this is occurring, and that there be a 30 day grace period, so they don’t suddenly start parking and get infractions. For the first 30 days, they would only get warnings or notification of the change.

Brenner stated that is something they would do when this item is discussed, not now.

Browne stated he’s trying to give the Executive advance notice of his concern.

Weimer stated this seems to be scheduled for a public hearing at the next meeting. He asked if the councilmembers want it scheduled in the Public Works, Health, and Safety Committee that day. Staff indicated they will be available for a committee meeting.

The Council concurred.

Weimer stated it makes sense to put it in committee on April 14, and schedule a public hearing two weeks later.

The motion to accept this Introduction Item carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Weimer (6)

Nays: None (0)

Absent: Kremen (1)

5. ORDINANCE ESTABLISHING PARKING RESTRICTION ON BENNETT DRIVE (AB2015-118)

6. ORDINANCE AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM (AB2015-042A)

7. ORDINANCE AMENDING THE 2015 WHATCOM COUNTY BUDGET, FOURTH REQUEST, IN THE AMOUNT OF $1,444,000 (AB2015-119)

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported for the Natural Resources Committee regarding the ordinance amending Whatcom County Code Title 20 and the Comprehensive Plan regarding surface mine permitting, the Mineral Resource Lands designation process and Mineral Resource Lands designation criteria (AB2014-344) and on creating a Wildlife Advisory Committee.
Mann reported for the Planning and Development Committee on the briefing on proposed ordinance establishing Whatcom County Code Title 19, Code Enforcement (AB2015-116).

Browne stated it’s nice to see young people enter politics. His niece, who is 11 years old, was elected as the president of her school. She started out behind in the election, canvassed her constituents, and found out the greatest concern of her fellow students.

Buchanan stated he welcomes Councilmember Sidhu to the Council.

Sidhu stated he accompanied Lummi Chairman Ballew to testify before the Transportation Committee on the Slater Road interchange project. The project is not yet in the budget, but they made a pitch that it be included.

ADJOURN

The meeting adjourned at 8:50 p.m.

The County Council approved these minutes on ______, 2015.

ATTEST:       WHATCOM COUNTY COUNCIL
               WHATCOM COUNTY, WASHINGTON

______________________________  ___________________________
Dana Brown-Davis, Council Clerk   Carl Weimer, Council Chair

______________________________
Jill Nixon, Minutes Transcription
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 3:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Pete Kremen, Ken Mann, Satpal Sidhu, Carl Weimer, Rud Browne and Barry Buchanan.

Absent: None.

COMMITTEE DISCUSSION

1. EXECUTIVE LOUWS TO PRESENT ANOTHER UPDATE ON PROGRESS AND DEVELOPMENTS OF THE NEW JAIL PROJECT (AB2015-047C)

Jack Louws, County Executive, referenced the documents he emailed to the Council earlier in the week (on file) and described his work with the Cities to develop the agreement. Changes to the agreement include, in order:
1. Pooling the money to pay off the bond measure,
2. Taking care of capital maintenance needs of the facility,
3. Using the extra money to provide additional programming in the community to reduce recidivism, and
4. Using any remainder over the years for future expansion of the facility.

The agreement has been further modified recently. He read the five changes from the letter to the Cities dated April 10, 2015. Whatcom County cannot move forward with authorization of the sales tax increase without a financial commitment from the Cities to pay for a portion of the facility. The County needs that guaranteed financial commitment from the Cities to bond for the complete project. Over the next month, he must get commitments from the Cities. He has commitments from six of the seven mayors to move this to their councils with a positive recommendation. He will meet with the Bellingham Mayor tomorrow.

Today, he will present the information to the Council. No commitment or decision is necessary today. In two weeks, he will return to the Council to begin discussing a decision.

Weimer referenced the first item in the letter to the Cities and asked if the amount that would sunset is half the tax they’re talking about. Louws stated it is one-half of the tax.
Brenner asked how much tax the County is allowed to collect. Louws stated legislation allows three percent. The County already enacted one percent. Two percent is left available to go to the voters. Of that two percent, the agreement specifies that half of it, which is 0.1%, would sunset in 30 years, or before if the County pays off the bonds early.

Brenner stated she knows the main concerns. The County needs a new jail. She would like the County to show they are planning for robust mental health services simultaneously. The Council hasn’t been given information on that dual progress. Louws stated he will give that information in more detail later today. The agreement before the Council now pertains to the financial arrangement needed among the County and the Cities, which will pay for the bonds necessary to finance this project. He’s clearly heard that same message from the community in the last few weeks. He shares the concerns. There are ways, outside of this agreement, to augment existing services.

He submitted and read from a presentation (on file) regarding the Jail and Sheriff headquarters proposal.

Kremen asked if the money received from the Cities in the amount of 40 percent is exclusive of the per diem costs. Louws stated it is. Whether or not the Cities use the jail, Whatcom County will get $1.766 million of that sales tax to make the bond payment. He continued the presentation. He talked about the non-parties language in the agreement with Lummi Chairman Ballew.

Brenner stated she heard the Lummis are going to build their own jail. Louws stated they aren’t tied to this agreement because they don’t collect or pay sales tax. If they want to build a new correctional facility, they can do that. If they do, the County would not need to expand the jail facility as soon, which is included in the calculations. It doesn’t inhibit the County’s ability to pay the bond cost. Currently, the Lummi Nation uses about seven percent of the existing jail facility. In total, non-parties to the agreement currently use about 15 percent of the existing facility. He anticipates that the non-parties to the agreement will use about ten percent of the new jail facility. If they aren’t going to use the facility, it may change the size of the facility the County builds by a few beds, but it doesn’t make a substantial difference in the design. The Jail Planning Task Force recommends a facility that has between 500 and 700 beds. The professionals said in the needs assessment to build a facility that has 545 to 665 beds. If one of the parties decides to not use the facility, it would have a minimal impact on the daily operation, but wouldn’t put the County in a financially difficult position. He continued the presentation on the tax projections.

Mann stated he thanks the Executive and his team for doing excellent work on this complex project. He appreciates all the work they’ve done. He has concerns about it as a criminal justice proposal, whether they’re doing enough to reduce recidivism and incarceration rates, treating the rampant mental health and drug addiction that lead people to jail, and not having enough options for those people.

He asked if the maximum allowed bond length is 30 years, or if the bond length can be longer. Louws stated any longer will stretch the reasonable payback cost. There is a diminishing rate of return when extending the payback period. Going from 25 years to 30 years adds millions of dollars in interest payments. It is possible. His staff will find out the cost-benefit ratio and talk to the bond consultant.
Mann asked what the County will do if the new jail project doesn’t go forward and if there is an alternative backup plan. Louws stated Whatcom County doesn’t have the financial capacity without voter approval to build a facility of the size needed to serve the County and the cities. The County could build a smaller facility, but it won’t serve everyone’s needs.

Bill Elfo, County Sheriff, stated he is obligated to ensure the safety of Whatcom County citizens. The current facility is grossly inadequate. For moral, ethical, and legal reasons, they can’t continue to operate the existing jail at its current capacity. Changes in State sentencing laws and how the criminally incompetent are treated at the State level will result in a rise in the felon population. He recommends that the County prioritize what it is legally responsible to do. They must accept all felony, misdemeanor, and gross misdemeanor cases generated by the Sheriff’s Office, the Washington State Patrol, and other State law enforcement agencies located in Whatcom County for crimes committed in the community. The County would assign a maximum jail capacity for the existing jail. When that capacity is reached, he would recommend putting the Cities on notice and letting the agreements with the Cities expire on December 31, 2015. The Cities will have to find jail space in other locations. The County won’t have another choice. Some of the other counties are in the business of renting out jail space for profit, and the Score facility does that as well. It would be challenging to shuttle pre-trial inmates back and forth. He would do whatever he could to house people overnight if the current jail has capacity until they get first appearance, but the Cities will have to shuttle them to another facility. He doesn’t know of another way to deal with that.

Also, he has serious concerns about the structural integrity of the building. He described the structural defects of the Sheriff and jail facility, which include holes cut in load-bearing walls that compromise its structural integrity. After the Nisqually earthquake, the building suffered stress cracks that continue to grow. To ensure safety into the next decade, they need a comprehensive evaluation of the facility. He’s not willing to go back on booking restrictions. He inherited those when he got here. The jail refused to accept people who were wanted on warrants for failure to appear. They had people who were wanted for 40 to 50 charges for not showing up in court. They can’t go back to that. The early release system of the judges is also not wise. He described a case in which an inmate was let out on low bail and proceeded to shoot people in a robbery and shoot at the deputies. That person ended up at Harborview Medical Center, and the County had a half million dollar medical bill. There can’t be a policy that lets dangerous people out into the community. The County must save its jail space for those types of cases and ship out misdemeanors. However, the County relies on the Cities and Tribes for a significant portion of the jail operational revenue. The County will have to find a way to pay for those without relying on the Cities.

Mann asked if the Sheriff would not go back to booking restrictions and would keep the jail at the current population. Elfo stated no. He will not keep the current population. If this new jail proposal doesn’t move forward, he would bring down the population to a proper safety level. They will also have to do retrofits and modifications to put a behavioral health ward into the existing jail so they can isolate people rather than keeping them in the booking area. He would lower the jail population to a manageable level, eliminate some capacity by adding a behavioral health ward for appropriate evaluation and treatment in the jail, and tell the Cities and Tribes that the County can no longer accept their misdemeanants.
when the jail exceeds its maximum. The Cities can explore opportunities for using other jail facilities that have surplus space or are in the business of renting out space, such as King County or Yakima County. He does have a very specific fallback position.

Mann asked the general cost to do the alternative and repair the facility. Louws stated they have not analyzed the alternative cost of retrofitting the existing facility. That isn’t the direction they want to move it. If it is the long-term direction, it will cost another million dollars to look at it. All their effort has been on moving forward and looking to the future. There isn’t a revenue stream for the alternate backup plan. The Cities and Tribes will have to pay a capital facilities charge for the day beds that the County can rent out. If they lower the existing population of the jail by 40 or 50 people, it will adversely affect the County’s revenue. Because they won’t be bringing in the low level offenders, it will also impact the work crew and work release programs. He has not had a vision for putting money into the existing facility. If the community decides the new jail plan won’t happen, the alternative will be costly and not for the greater good.

Mann stated he would like to have a general estimate of that cost. He will need that information to advocate for the new jail proposal. Louws stated every major mechanical system, except the electrical controls, needs replacement. That includes plumbing, heating/ventilation/air conditioning (HVAC), the control units, door and lock retrofits, and a remodel of the building for medical services. It may cost $10 million to $15 million and still not be worth fixing.

Mann stated he’s not advocating for anything. He’s asking questions so he has a range of options and context in which to make an immensely important decision. Louws stated he doesn’t have enough information to answer those questions right now.

Weimer stated there are agreements with the Cities now through the end of the year. He asked if the County has to give the Cities notice if it will no longer accept their inmates. Elfo stated the notice requirements are governed by State law, and there is an arbitration process. For the small Cities, it would be a tremendous burden when they have one officer on duty who has to drive an inmate to SeaTac to book someone into jail.

Buchanan asked for a side-by-side comparison of the County banked capacity and the sales tax measure. Louws stated there is about $2.45 million of banked capacity that the County could collect from taxpayers without a vote of the people, because the County hasn’t raised property taxes for 18 years. From the two-tenths of one percent (.2%) sales tax, they will collect $7.6 million in 2019. The bond payment is about $6.4 million. They would be about $1 million short per year if the County collected all its banked capacity plus one-tenth of a percent (.1%) sales tax.

Brenner stated language is missing in the handout about the outcomes, return on investment, or best practices for the triage facility services.

Ann Deacon, Health Department, stated the sentence should read, “Medicaid dollars have recently contributed significantly more funds to operations, reducing our local financial obligations.” Now, they are thinking of contributing about $130,000 locally. In the past, they’ve put in upwards of $400,000 to $500,000 per year. Medicaid contributions will help.
Brenner asked for clarification on the information about reducing arrests by 58 percent due to training for first responders. Deacon stated that if they assume 15 to 20 percent of the population is seriously mentally ill, it would be 58 percent of the 15 to 20 percent total mentally ill population. The 15 to 20 percent are typically high users of law enforcement services, sometimes jail. The better the first responders get in managing those situations, the less likely they are to get to jail. That comes from some research from the Washington State Institute.

Brenner stated she saw some of the reasons that people are jailed that made no sense. She asked if the County is required to take misdemeanants from the Cities. Elfo stated the County has a contractual obligation that has been in effect for 35 years to provide them jail service. A Bellingham City Council member also wanted to know why they book so many people in jail on these minor ordinance violations. The purpose is to highlight that those are laws the councils have enacted or not repealed. When people don’t show up for court and a judge issues a warrant for their arrest, officers are required to arrest them under the court order. The officer has no option in those situations.

Brenner stated that when people don’t pay their taxes, the County disregards it after a while. She was shocked that they’re going to jail for things that are nonviolent and are not a big deal. Elfo stated law enforcement doesn’t decide those cases. The courts decide who goes into jail. The judges determine that warrants must be issued because someone has failed to meet their obligation to show up in court. They issue a warrant. He understands the City is talking now about criminalizing a whole other class of offenses for failing to respond to a civil summons. That has an impact. The judge issues a warrant. The officers don’t have discretion. They have to serve the warrant.

Brenner asked if the County and Cities can work together to reduce that number. Elfo stated the Cities need to rework their codes if they don’t want to put people in jail for those offenses. Over 56 percent of the people are out within 24 hours. They see a judge, and are released on their own recognizance or on a low bail. Some are dysfunctional and don’t know how to keep court dates, and they do return frequently to the facility.

Regarding alternatives to building a new jail, they followed the plans of the jail planning task force, which the Council approved. They don’t have comprehensive plans in place, but they have to think about that if this doesn’t come to fruition.

Mann stated it’s possible that the voters don’t approve the measure, or something else may keep this plan from working. They need to know what’s going to happen.

Brenner stated she’s never supported ballot measures on the primary ballot, including this ballot measure. She asked the deadline for making a decision for the November ballot.

Tyler Schroeder, Executive’s Office, stated the deadline for the November ballot is August 4.

Browne stated his committee discussed an issue this morning on Bennett Drive. If someone sits down on one side of Bennett Drive in the city limits, they can get arrested. If they sit down on the other side of Bennett Drive in the county, they won’t get arrested because it’s not an offense. The legislative body of the City of Bellingham has created
offenses that law enforcement must enforce, and the courts will make their own decision. Councilmember Mann’s point is something they must consider. The County councilmembers get a lot of letters from the voters who say they disagree with putting in a new jail, and tell them to do something else. Options aren’t being presented to the voters. It’s difficult for the voters to make a decision if they don’t see what the alternatives are that have issues such as having to move inmates to other areas. No one wants a small City to have to drive an inmate to a facility in SeaTac for overnight and pick them up the following morning for a court appearance. That is completely illogical for everybody. They have to work through the potential alternatives. Work out what the capital costs and operating costs for those alternatives are, such as moving long-term inmates out of County facilities or retaining the existing Irongate facility, with the permission of the City of Bellingham, and using it as a Sheriff’s headquarters or for low risk offenders. The County must work through and document those alternatives if they are going to have any hope that the voters feel like they are making an informed decision.

He asked the Sheriff and Executive to respond and offer alternatives to a couple of scenarios, to be upfront and anticipate what alternatives the citizens will put forward. If the County can show it’s thought those options out and determined the costs, the most logical solution will emerge with support.

Kremen stated this is a monumental issue. Wasting any significant or appreciable amount of money in the current jail is a very poor use of taxpayer dollars. He would never support any modification or improvement to the current jail. It’s time to get a new jail. The judges, Public Defender, Prosecutor, Sheriff, and Executive are all correct. They need a new jail. He would like to see a new jail. The ballot measure needs to be approved, or they won’t get a new jail. A proposal should be crafted with the help of all, including the Council and community, that will work well for generations. It has to be approved by the voters.

He’s hearing from constituents that they are given an all-or-nothing scenario. That’s not wise. People don’t like to feel that they are put up against a wall. That’s not the intent of the administration or Sheriff, but that’s the perception. They need to be mindful of that. Time is running short, even if they opt for the general election in November. August 4 will come soon. They need to be nimble and put a lot of effort into this, because there’s a lot at stake.

The presentation provided a lot of good, clear, useful information. They need more of that as they craft this plan and get it out to the voters. They need to be candid. Whatever goes before the voters also has to be cost-effective. The voters need to believe that the County isn’t spending more money than needed or isn’t choosing the most expensive option when it isn’t needed. The proposal must include alternatives to incarceration, treatment, and mental health. They must provide a full spectrum of services, not just incarceration. The proposal they’re talking about today appears to be more incarceration-centric than he would like.

The economies of scale by consolidating the two existing facilities is valid. When the County built that facility, it was built after telling the voters the County would sell the facility and put the proceeds into the new jail. He’s all for having a behavioral health focus, but they can’t say they are going to save money by expanding the existing Division Street facility. It will cost money to run that, too. He will support 100 percent any proposal that makes sense and accounts for all factors.
The Sheriff didn’t mean to issue an ultimatum, but that’s how it seems. That’s the way it may be perceived by the public, and the County will suffer the repercussions. He doesn’t recommend the ballot measure be on the August ballot.

Louws stated he would like to have the support of all the legislative bodies of Whatcom County to move this agreement forward. He put a lot of effort into it. The agreement is a financial document that the Cities and County will sign to build a new correctional facility that includes 8,000 square feet of new medical space that they don’t have available now. It provides opportunity for the behavioral health specialists and corrections officers to do their work.

He asks the Council for that support. If the Council can’t support the agreement as it is, he needs their help to identify what’s lacking and what he needs to do to get the Council to approve it. He can’t read the minds of the 60 elected leaders throughout the county about what it takes to get this approved. The Council, as a legislative body, needs to make this work. The deadlines are coming up. If they don’t make the primary ballot, get it out as soon as possible so they have as much time as possible to articulate the need for this to the community in time for the general election ballot in November.

The reason he hasn’t wanted to answer the question of what happens if this doesn’t pass is because the alternatives are dire. There’s no good way to articulate the problem the County will have if it stays in the current facility for many more years. There are life safety issues and corrective action is necessary. From a liability standpoint, they will need to reduce the population. The consequences of that aren’t good.

Now, he needs the Bellingham City Council, Whatcom County Council, and all the City councils to tell him and the Sheriff what the challenges are regarding the agreement, so he can find compromises and create a document ready for everyone’s approval. Six of the seven mayors are ready to move it forward to their councils and are satisfied they’ve done a good job on the agreement. They’ve told him they will not let perfect stand in the way of good. That’s what he’s asking of the Whatcom County Council. He asks that Council as a whole tell him what needs to change. He will take those changes back to the Cities to find out if they agree. He asked for clear direction on how to change it.

Weimer stated that’s a fair request. He will wait to make a motion until the public hearing this evening. First, the councilmembers are hearing the public ask why the County doesn’t just remodel the jail. The councilmembers are also hearing from the public that Skagit County is building a 400-bed jail for $60 million, and they want to know why the Whatcom County proposal doesn’t cost $75 million. He asked what is wrong with that comparison. The councilmembers don’t have a good answer to those questions, so they are hoping the administration does.

Louws stated Skagit County is building a jail that will be at capacity and not have the ability to expand, as the Whatcom County jail will do. The Skagit County jail will have one pod with 400 prisoners. It allows seven different ways to segregate the male and female populations within the seven cell blocks and one exercise area. Whatcom County is going to a two-pod system that provides 12 different areas to segregate the populations among its different classifications. Whatcom County has the additional cost of a second pod and has more oversized space for the intake area, kitchen, laundry room, and medical space than
Skagit County plans to have. The property sizes are probably equivalent. He can create an equal proposal, within about $5 million.

If the voters approve this, the County must review its space needs assumptions regarding the support services for both the Sheriff and Corrections facilities. Now, based on the estimates they have, this is the money the County needs to build its facility.

Skagit has a population of 127,000 and is building a 400-bed facility. If Whatcom County were to build a facility based on population at the same rate, the equivalent size would be 703 beds, but they only plan to build 521 beds.

He trusts that the professionals know what they’re doing. Whatcom County will have a bit more groundwork on this site because of soil conditions and preloading with gravel. He can provide a more detailed explanation if requested.

Weimer stated they will have to explain that to the public at some point.

Kremen stated it’s an excellent answer.

Weimer stated he would like more information on why they need to vote on this sooner rather than later for financial reasons, at a cost of about $600,000 per month. He asked the Executive to show his math for that logic. Louws stated it’s about $480,000 per month. They received a note from Liz Evans at the Association of General Contractors today that contradicts his numbers a little bit, but she anticipates a 13 percent cost of construction increase in the next four years. One hundred million dollars at 12 percent is significant.

Time is also an issue to be onsite in the Spring of 2017 to do the site work through the Spring and Summer of 2017. If they lose that window of opportunity and don’t start until the Fall of 2017, they might as well just start in 2018, which puts the opening date a year beyond that. If it is on the ballot in August, he will have three more months for the bid process.

He respects the philosophy that it needs to be on the general election ballot. However, the ballots get sent to everyone at every election. They have the opportunity to vote if they want. He’s not too worried about it.

Weimer stated they are hearing from the community that there is a need for behavioral health services in the jail and also outside the jail, to prevent people from ending up in the jail. They’ve talked a lot about the triage center. It looks like the current proposal delays the new triage center until the new jail is built, and they can sell the existing building and recoup the money for the triage center. However, he would like to see how they can move forward with the triage center concurrently. Possibly ask the local governments to contribute more money up front with the promise of being reimbursed by the sale of the triage center. Possibly bond some of the capacity the County has from the behavioral health tax. The County has $3 million collected now. Figure out how they can put something together that would generate money. He doesn’t even have an estimate on the cost of a triage facility. Find out how to add that into the new jail project so the County can develop both facilities at the same time. Doing that would create a lot of support in the
community, if the community sees that the County is doing good things to keep people out of jail while also building a new jail, which everyone agrees that the County needs.

Louws stated he is committed to continue the behavioral health program, which he’s articulated many times. They don’t have to wait until 2020 or 2021 to do anything related to the expansion of the behavioral health unit. The North Sound Mental Health Association gave a presentation that indicated there may be additional money for programs in the five county area. They’ll know more about that in a few months. He can come up with the financing to do that through the existing revenue streams. The challenge is within the jail use agreement, which is to tie it as a function to the bonding of the facility. The County has banked capacity, real estate excise tax (REET) money, and the behavioral health sales tax money of about $4.1 million per year. If the County wanted to bond the entire sales tax money, they could do millions of dollars on that. Or, the County would be able to commit $240,000 per year from the behavioral health sales tax, giving the County an additional $4 million to put with the existing $3 million for a facility. There are many options available if they can take the time to do the analysis. The North Sound Mental Health Association needs to do the analysis of all five counties to find out where the bed spaces go. If they clear those hurdles, they have the ability to create a new triage facility. They have the capacity to do it, but a lot of these options have come forward just in the last three or four months. The documents have articulated that they want to do that. Now they must convince the citizens that the County is motivated to make that happen. Getting all of these things planned out and detailed to the point of creating a definitive timeline between now and August 4 isn’t likely.

Weimer stated spell out in writing their ability to do that and define the possibilities. Through some kind of resolution, the Council may make a clear promise to the people of the community that the County is moving forward.

Louws stated he is completely willing to do that. That is a great suggestion. It’s something they can put into a resolution, on behalf of the County Council and the County Executive. He shares the desire to do more. They will craft it in a clear and concise way that expresses the County’s commitment to make that happen.

Weimer stated they could possibly get the cities to do the same thing.

Brenner stated the vote isn’t going to pass without specific information on what the County will do and the location of services for mental health. Leave the triage center where it is and create pods for it, which will be legal. They could still get federal funding if each one has 16 or fewer beds. She wants the new jail. If the County doesn’t have a real specific program in the resolution, it won’t inspire much trust in the government.

Louws stated he would like his staff to work with Councilmember Weimer to write a proposed resolution on behalf of the Council and Executive that may address the issue. As much as he would like to have a specific program in the resolution, he isn’t in a position to articulate it to that level. Work with the behavioral health staff, Council, and administration over the next few weeks.

Weimer stated he’s glad to do that. It’s better to make it appear as binding as possible. They may even want to spend a little money to have someone such as a
professional contractor to talk about whether the existing facility is the best location. Devote $50,000 or $100,000 to study the idea and get it in order.

Louws stated the agreement before the Council now allows for either option, to expand the Irongate facility or put the proceeds from the sale of the Irongate property into a new facility. They can also pre-buy a new facility, and sell the Irongate facility later through interfund loans within County government. Many financing options are available. The commitment is in the document that the dollars of that facility will remain with behavioral health services in Whatcom County government. All the Cities in the county paid for that facility, and it’s the right thing to do.

Weimer stated he’s looking for a further commitment that shows movement toward implementation. Louws stated they can put a proposal together to come up with a needs analysis and environmental impact statement regarding the need. The County will need those analyses to be qualified for continued federal Medicaid and Medicare funds.

Elfo stated there is new legislation that takes effect April 1, 2016 that will allow law enforcement to divert people with mental disorders from the criminal justice jail system to triage centers or stabilization centers. It also sets up protocols and requires cooperation of law enforcement and the Prosecuting Attorney’s Office. He included this information in his written comments for the public hearing at the evening meeting. It is something they should incorporate into the discussion, the expansion of Revised Code of Washington (RCW) Chapter 10.31 and other legislation.

Weimer stated the County has heard from the community that it must show clearly it is moving in that direction. Elfo stated a committee was created several years ago that included the Sheriff’s Office, local law enforcement, the Prosecutor’s Office, the Public Defender, mental health community, and the Health Department, to come up with a recommendation to establish a fully functional triage center. It was never funded because the hospital withdrew its support to make it operational because of changes to its funding schemes. It was exciting to hear Mr. Valentine talk about new resources that are available to do that. He fully supports that. The Sheriff’s Office will cooperate to do everything possible to make that happen.

Mann stated the County Executive requested specific ideas and suggestions. He’s happy with some of the ideas they’ve heard today. The Council doesn’t have the benefit of full-time staff and consultants. They rely on their own personal time, research, members of the community, and limited access to County staff. The Council isn’t able to provide any realistic suggestions with cost estimates and success rates. The Council may be able to provide a list of ideas that it will hear at the public hearing tonight. Ideas so far include a new triage center, getting another judge to move people through the system, and having a staff person call people to remind them of their court appearances. Depending on the level of specificity that the Executive wants from the Council, he doesn’t know how good of a revised working document it can provide. He’s not yet advocating for a remodel of the existing jail, but they should know what they’re talking about. The Council doesn’t have its own resources to get good answers.

Louws stated he is trying to get support from eight legislative bodies. He needs clear direction. They worked together for three years on this project. If the Council needs that information to make a decision of whether or not the County needs a new jail, the
administration will provide what it can over the next couple of weeks. They can’t do a full study on the costs of bringing the existing facility up-to-date. There’s no time. They may have been able to do it through the EIS two years ago, but not now.

This is the financing agreement needed to go to the voters, so the County can get the commitment needed from the Cities to pay for the bond. Anything the Council can give him that isn’t in that agreement would be appreciated. Everyone in the administration has put forward their best effort. If the Council decides it’s not good enough, without articulating reasons why it’s not good enough, it will be difficult to put something together. Saying now that they want an additional million dollars of Whatcom County money to pledge to behavioral health to be used as determined down the road, for example, is outside the scope of this agreement. It could be handled through the resolution. He needs the financial arrangements to get this going. If they continue to talk with the community and tell this story, they will get a good response. The agreement isn’t perfect, and they know they have work to do, but this will get the jail built. Look at the agreement and do the best possible. A vote against it without further direction will be challenging for the administration to decide what it must do next.

Mann asked if the Executive feels he hasn’t had direction from the Council or heard its reasons and concerns. Louws stated the original proposal identifies the need to do more in the community in terms of mental health. To get the agreement to this point, that has been removed. Over the next 33 years, they will collect $360 million of sales tax from the county, and the Cities will retain about $85 million for their use of the jail. The money isn’t there. The agreement has been modified. The County will either accept it or not.

Mann asked if Executive Louws feels like he hasn’t heard reasons, concerns, or ideas for improvement today. Louws stated he’s heard there is a need and desire to make improvements in the delivery of behavioral health and substance abuse services in Whatcom County. He’s committed to that. He doesn’t believe there is capacity to do that in the agreement regarding the .2% sales tax, as it will be allocated to the County and the Cities in consultation with the bond consultants to guarantee the payment of $6.3 million. There is capacity outside of that agreement, and they can make that happen. They can’t put it in the agreement to sell this to the bond holders.

Browne stated he appreciates the effort of the Executive, Sheriff, judges, and staff. He agrees they need feedback from the Council. They have put a lot of work into this, and have their best interests at heart. In his conversations with people, there is 90 percent support for a new jail. There is also a 90 percent dissatisfaction with the U.S. criminal justice system. People feel it’s very inefficient and ineffective. There is 90 percent confusion about the alternatives that were considered, as opposed to just building a newer and bigger version of what the system currently has. He personally supports the need for a new jail. He is one of that 90 percent that wants a new jail. At least one member of the other legislative bodies is vocally opposed to the jail proposal in its current format. That person’s objections indicate he hasn’t thought through or been aware of the alternatives they’ve considered and the alternatives that the County is faced with if they don’t do this. The fundamental problem is one of the education about alternatives, including what the County has considered and what happens if it doesn’t build a new jail. That will make or break what happens at the ballot box.
Louws stated he asks for the Council’s support to allow the other legislative bodies and all the mayors to do the best job possible with educating the people, given the time they have left before the election. If it is held up here or with one of the other cities, they will deprive the voters the opportunity to weigh in on it. He asked what to put in this agreement to make that happen. He also wants to feel comfortable with signing a $100 million bond issue. Now, he’s convinced on a financial level that this works. The mental health providers are excited about the opportunity to take their jobs to the next level. He would like the opportunity to convince the voters of the need for the new facility and what they can accomplish by building it.

He is happy to do what he can to answer any questions over the next couple of weeks. He will work with Councilmember Weimer and staff to get this on the agenda and continue discussion in two weeks. Ultimately, he would like a decision about whether the Council supports this agreement for the capital construction costs of this facility and to allow the voters to weigh in. Concurrently, he will work on a resolution regarding mental health and substance abuse issues and the County’s commitment to move those initiatives forward to the community.

Sidhu stated he’s come into this process at the end. He’s read a lot of materials to help him understand. He noticed that everyone who has talked about this project is closed to this issue. He toured the jail and has not met anyone who believes they don’t need a new jail. They need a new jail, but the work doesn’t end there. He agrees with Councilmember Mann that they need to know the cost to remodel the current jail. That doesn’t mean people would advocate for that option. It would be a waste of money to remodel the current jail. However, they need to touch on the alternatives because the community will ask these questions. The councilmembers are preparing themselves to answer these questions. He knows there has been much deliberation to arrive at the recommended jail size. They need to know if that’s too big or too small. The cost of the capital expense is only $6.5 million or $7 million dollars per year. The cost of operating the jail is $16 million per year. Every dollar they spend on the bond creates $16 in bonding capacity. Spending $6 million gets them $100 million. The biggest point is not about how much money they can save on total capital cost now. They have not really looked at whether they can save on operating costs. He would like to know if they’ve considered that. Also, the medical facility and mental health facility are proposed for inside the jail and is available after a person is booked into jail. The questions they’ve been asking is what happens before someone is booked into jail and if they can divert people from jail before ever coming to the jail. He asked if they are making an effort to accomplish that and whether they can divert people before going to jail. For example, 15% of the jail population is 75 people. That’s what he means by considering alternates. People who have read these documents and listened to the conversation know that the jail costs $122 million. The County has not articulated what the savings are by building the Sheriff’s Office next to the jail and building it at the same time as the jail. Describe the reason for combining the projects. People are also asking why the Sheriff needs offices that cost $20 million. They will continue to ask those questions. Those are the questions that the councilmembers need answers to. The proposal should include information dedicated to answering these questions. These questions aren’t recent. They have been asked for many years. Agreement from the mayors doesn’t guarantee success. He wants this bond to pass and to build a new jail. They need a new jail. Allow the councilmembers to have the answers when people ask them to explain this project.
Louws stated he will do what he can to answer these questions without overextending their ability. Some of these questions they have heard for a long time. Some questions are brand new. He did not anticipate these questions as they’ve worked through the process the last three years. He should have anticipated that they needed to do a full study of the existing facility as an alternative through the environmental impact statement. The Council never discussed it or indicated that it was necessary during any of the proceedings. He has some catching up to do. He appreciates the Council’s time and comments. He hopes to get this past the legislative bodies and to the voters this year.

Brenner stated the triage facility has been brought up repeatedly. This isn’t new. Louws stated the original proposal to the Cities included the triage center. The Cities did not accept the cost of it. The County does have other options.

Brenner stated the vote won’t pass without it.

Browne stated the reason the Council is responding this way is because the issue is getting closer to the election and more information is coming out, so the Council is hearing more chatter and concerns from citizens. They all have to catch up at this point.

**OTHER BUSINESS**

There was no other business.

**ADJOURN**

The meeting adjourned at 5:00 p.m.

The Council approved these minutes on ______________, 2015.

**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 Meeting  
April 14, 2015

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, Pete Kremen, Ken Mann, Satpal Sidhu, Carl Weimer, Rud Browne and Barry Buchanan.  
Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

Weimer reported for the Special Committee of the Whole meeting and stated Executive Louws will present another update on progress and developments of the new jail project (AB2015-047C).

Weimer also announced there was discussion with Senior Deputy Prosecutor Karen Frakes regarding Growth Management Hearings Board Case No. 11-2-0010c (AB2015-018) in executive session during the Committee of the Whole meeting.

CITIZEN BOARD AND COMMITTEE VACANCY ANNOUNCEMENT

Weimer reported on the two vacancies on the Sumas/Everson/Nooksack Flood Control Subzone Advisory Committee.

PUBLIC HEARINGS

1. ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 20 AND THE COMPREHENSIVE PLAN REGARDING SURFACE MINE PERMITTING, MINERAL RESOURCE LANDS DESIGNATION PROCESS, AND MINERAL RESOURCE LANDS DESIGNATION CRITERIA (AB2014-344)

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

Abe Jacobson stated he worked with the mining department in New Mexico and supports the changes recommended by staff for making this a conditional use. The effects
of mining on the landscape are so long lasting that there is no harm in getting peer review. Neighbors can bring up things the staff or the applicant have not thought about. The conditional use status provides a good mechanism for getting this peer review. It’s not a punitive step. It’s not an excuse for neighbors to be difficult.

Kris Halterman stated they have not addressed the fact that the County is supposed to properly plan for mineral resource land, according to the Growth Management Act (GMA). It’s irresponsible that the Council takes action that causes increased housing costs and road costs. Know where the material is going to be shipped. Costs will increase for single-family residents, condos, and roads if they plan for less than will be necessary. It’s the Council’s responsibility to plan for a 50-year supply. Less land will be planned for, because no company will put in an application. Whatcom County hasn’t said it will pay for the State Environmental Policy Act (SEPA) study.

Greg Brown stated he is against this item. It’s another barrier to business in the county.

Ronna Loerch stated she lives on a gravel resource and is a neighbor to a gravel pit. The pit that was originally planned to be small has been sold and has become huge. The pit owners have harassed the neighbors to get their land so they can dig more gravel. Some limits might be in order.

Hearing no one else, Weimer closed the public hearing.

Browne moved to adopt the ordinance.

Brenner stated she cannot get an answer about how much aggregate is being exported and imported. It’s possible that none of it would stay in Whatcom county. The County doesn’t have any control over keeping the resource in Whatcom County. The Council included a clause that the County will do an environmental assessment, which will save the proponents money up front. It will help both the neighbors and the applicant. The Council listened to everyone. They have no idea how much aggregate is used in Whatcom County, so it’s impossible to know what the actual needs are. This ordinance does a much better job at making sure that the County takes a lead, whatever happens.

Mann stated he agrees with Councilmember Brenner. The Council has spent a lot of time on this ordinance. The County is going to take a comprehensive look at the gravel supply and do an environmental review.

Weimer stated this motion is to move the ordinance forward for concurrent review with the other Comprehensive Plan amendments scheduled for adoption later this evening.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

2. ORDINANCE FINALIZING A REVISED SYSTEM OF ASSESSMENT FOR CONSOLIDATION DRAINAGE IMPROVEMENT DISTRICT NO. 21 (AB2015-100)
Weimer opened the public hearing and, hearing no one, closed the public hearing.

**Brenner moved** to adopt the ordinance. She asked if there is virtually no change.

Paula Cooper, Public Works Department, stated this district didn’t have a map that could be digitized for the benefit zones. They had to go back to the old records to create that map. They tried to reflect relative benefit and the acreage without changing things much. They reduced the benefit zone in one area because the district is having a hard time making the drainage better. It’s next to a wetland. Otherwise, it’s pretty much the same as before.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

3. **COUNCIL INVITES THE PUBLIC TO COMMENT ON THE PROPOSAL FOR A NEW WHATCOM COUNTY JAIL AND OFFER SPECIFIC IDEAS FOR JAIL DIVERSION PROGRAMS (AB2015-047D)**

Jack Lowes, County Executive, gave a staff report on the need for a new jail facility, work done on developing a new jail project that includes size, location, design standards, a jail use and financing agreement, cost-sharing allocation with the Cities, and the need for a voter-approved sales tax increase.

Bill Elfo, Sheriff, stated he’s been an advocate for controlling the need for increased jail space through prevention, diversion, and treatment. There is a need for system-wide improvements to the criminal justice and mental health systems. Decades of public policy at all levels resulted in jails becoming the de facto mental institutions. Dramatic policy and funding shifts are required to correct the problem, especially by the State of Washington. Whatcom County has a moral, ethical, and legal obligation to provide a safe facility to fulfill its statutory and constitutional responsibility. He is obligated to operate the jail in a safe, legal, constitutional, and humane manner. He described committee jail planning efforts since 1997. There isn’t sufficient space for treating those with mental illness. They must house people in a manner that does not aggravate behavioral health problems. There are enormous liability issues. He recommends that the County remedy the situation without delay. He agrees that diversion and treatment programs should be maximized. He described past diversion actions by law enforcement and courts. The jail-based behavioral health program dramatically improved the capacity for evaluation, treatment, and reentry to include making connections with community-based services, but the program will be more effective with adequate facilities. He supports many programs, including evidence-based mental health courts, probation department supervision as an alternative to jail, high risk offender housing upon release, juvenile diversion, and behavioral health specialists in the schools. He also supports possible new funding sources for the triage center and behavioral health, treatment, and diversion options. Despite these programs, they continue to need a safe jail. The State is transferring its responsibility to house sentenced felons from State prison to county jails. The State is also reducing services to those released on probation. The County law enforcement and court officials urge the County Council to move forward the new jail and the mental health and addiction programs. He referred the Council to his written comments.
Weimer opened the public hearing, and the following people spoke:

Bill Newmon stated he supports moving forward with the jail. Whatcom County has grown. The jail in its current condition is very crowded. It’s time to build a new jail.

David McCluskey stated the jail is overcrowded. The citizens voted for a tax increase 10 years ago, but there has been no action. Mental health is a worthy topic, but it is not an issue to be bundled with the jail. Whatcom County Code (WCC) Chapter 1.28 does not require treatment of mental health issues, which is covered in WCC 2.44. It’s not the responsibility of the jail to carry the burden of mental health treatment. The .2 percent tax increase will have a tough time passing, given the fact that the .1 percent that was already enacted was improperly handled. The voters are more likely to approve another .1 percent sales tax increase. The City of Bellingham should agree to give the County 100 percent of the new sales tax and banked capacity, which will be an amount close to their portion of the cost. Get the new jail project done.

Greg Winter, Whatcom County Coalition to End Homelessness Chair and Opportunity Council Homeless Service Center Director, stated most agree they need a new jail. They should be proud of existing local programs. Some of the jail residents are there because they are ill. The root cause is a combination of mental and additive illness. Consider ways to redouble their efforts to examine the existing programs and possible new services. Do this now, without waiting for the new jail.

Joy Gilfilen, Restorative Community Coalition, stated the County must address these problems with a restorative economics plan. Many people are afraid to speak against the Sheriff and Executive branch because they are afraid their businesses will be shut down. Businesses are moving out of town because of regulatory domination. The Sheriff gets many minutes to speak to the Council about issues that he’s already spoken about, but the public only gets three minutes. Jail alternatives and alternative programs are different things. Prison reforms are necessary. Bring business people together to do a taxpayer needs assessment. The Restorative Community Coalition asks to make a presentation to the Council. People are scared to speak to the Council because they can't afford to be incarcerated.

Irene Morgan, Restorative Community Coalition Founder, submitted handouts (on file) and referenced the Revised Code of Washington (RCW) 42.56.03 about protecting public interest. They need a new jail, but not the one being proposed. The Division Street triage center could be expanded into a full detoxification or mental health facility. The City of Bellingham could take it over for its own jail. The County could build a 300-bed jail next door. They don't need more than 300 beds when they do all the restorative community actions they should do. Reopen the Gerard Street detoxification center. The federal work release center is empty. Create a reentry program, a mental health group home, and a training center for essential living and job skills. She asks for the Council to allow them to present the entire proposal to the Committee of the Whole.

Robert Leib stated the first contact is the psychiatric ward at St. Joseph Hospital. He spoke about the poor treatment a mentally ill family member received in the criminal justice system and the jail. The inmates abused him, and the guards were afraid of this young mentally ill person. The jail contracts with third parties to charge inmates for making phone calls, extra food, and making bail. Instead of getting necessary treatment, the
person’s actions were misunderstood, and he was charged with more felonies and had to pay more fines. The current system is being run as an income stream. Other people have similar stories. A larger jail and putting the community deeper in debt won’t solve mental health problems.

Judith Fjellman stated she has been living next door to a drug dealer for several years. She thanked the Sheriff’s Office and others who worked to do something about the perpetrators in the neighborhood. They have addicted children who are trained to break into homes. A larger jail is needed. They need a holding place for the kingpins who are getting out on bail right away. Kids are dropping out of school because of drugs. Build a larger jail. Focus on drug kingpins. Bring programs into the school.

Kathy Leathers asked why they are continuing with more incarceration, which will assimilate a larger population of offenders. A program for court date reminder phone calls is a good idea to prevent failure to appear charges. Reconsider the need for such a large jail.

Bryan Lloyd stated he is a corrections officer in the jail. Currently there are 90 corrections deputies who put their lives on the line every day by working and living with these inmates for eight to 16 hours. The jail needs to be safe for the officers who work there. He can't go anywhere in the community without being recognized by someone who has been in jail. He tries to treat the inmates fairly, firmly, and justly every day, and he gets respect for that. His coworkers are like family. For their sake, move forward and get this plan done.

David Jefferson submitted information (on file) and stated there is new funding for services like health homes for people with chronic diseases, and mental health and addiction disorders. Current health home facilities are not ready yet to provide specialized care. Health Homes and Care Coordinators are new services in the medical field. First, figure out a way to fund a care coordination system for people who need services. A care manager would connect them with these services. Second, provide long-term, adaptive, continuing care services for two to five years after people have had their acute care services.

Larry Thompson submitted and read from his handout (on file) and stated they need a new jail now. Many people in jail have a mental health or substance abuse problem. Don’t delay the jail, but link it with more diversion facilities. First, they need a new diversion facility. Second, they need a local substance abuse treatment facility. Third, they need a post-diversion facility with case managers to help those coming out of the system to lead more productive life.

Randy Adrian stated he is a corrections deputy in the alternative program section, which includes electronic home detention, work release, and work crews. They divert more than 70 people per day from the jail system. The exiting jail needs to go. Five hundred beds is not unreasonable. The population of the County has increased and will continue to increase. They need the facility now. Care and custody are taught at the Academy. The jail isn’t safe for the inmates or the officers. Move this forward to the voters as soon as possible. It will take time to build a jail.

Kay Sardo stated do not build a facility away from the County seat. Include in the ballot measure funding for programs, such as Seattle’s law enforcement assistant diversion
(LEAD) program. Include restorative justice principles, housing, and before-and-after incarceration counselors. The need for more beds will be reduced.

Catherine Chambers stated crime rates are being reduced nationwide. Most people in jail and prison are people of color. Recidivism rates are over 60 percent. If the jail-based programs worked, the recidivism rate wouldn’t be so high. Programs work in the community, not in the jail. Use a restorative justice model. Teen court is a good example, but it isn’t funded by criminal justice funds. Taxpayers deserve accountability. Inmates’ families are the most important part of rehabilitation, but the cost of incarceration is bankrupting them. Diversion and programs are part of a restorative justice model.

Kathryn Waters stated a timely judicial process, including speedy trials and restorative justice, are necessary. They also need up-to-date and effective mental health programs. Behavior patterns will change for the mentally ill in a nourishing environment. Create drug addiction treatment centers, behavioral health clinics, and restorative justice.

Abe Jacobson stated Sheriff Elfo has a good, long-term commitment to jail alternatives. However, they simply need a jail. If the size is too big initially, more people will be coming to Whatcom county. The County needs to build the jail as proposed. He is supportive of the diversion programs, but not as a substitute for jail. Whatcom county may be a magnet for people who have issues.

Chet Dow stated the size of the proposed jail is conservative. They need to replace a very dismal environment. Twenty years ought to be enough time to gather the information needed to move forward.

Tyler Ryan stated recognize the time spent on this project by Executive Jack Lowes and Sheriff Bill Elfo. They have spent considerable time exploring all the options. Support the elected officials to make the decisions the citizens have elected them to make. The jail project could fall by the wayside and not get done at all if they try to add all these extra projects. Get this project going. If necessary, they can ask for additional funding later.

Theresa Erickson stated mental health is huge issue in this community. With all the desire to fix a broken system, the opportunity to build a new safe jail will be put on the back burner. However, they’ve been talking about this for 20 years, which is long enough. There are lives on the line every single day. She fears a catastrophic loss of life before the new jail is built. She’s not willing to bear that burden, knowing the conditions that exist in the current jail. Support the professionals who work in the jail daily. The citizens deserve the right to vote on the sales tax measure soon.

Margaret Curtis stated she urges the Council to support the jail and move it forward onto the ballot. Trust that staff will continue to work on alternatives and diversions, but don’t let that need delay the jail.

Richard Maneval stated he’s concerned the proposed new jail is not big enough. They aren’t doing enough about mental health community-wide, but they are talking about an adult corrections facility and Sheriff’s Office, which they desperately need. The community hasn’t given the Sheriff’s Office what it needs to do its job. Move forward with the new jail. Allow voters the chance to vote on it.
Marvin Wolff stated the important issue is that jails are meant to keep the public safe. Mental health is a separate issue. The people working in the jail are in danger every day. The jail was declared unsafe almost 20 years ago. The County cannot incur that liability.

Bruce Ayers stated it’s time to move forward. Twenty years ago, the blue ribbon committee stated a new jail was needed. It will take four years to build a new jail. They cannot delay any longer.

Valerie Lloyd submitted and read from her handout (on file) and stated she supports behavior change analysis. Support behavior change through the principle of applied behavior analysis (ABA), which must be designed into the justice system and jail.

Bill LaFreniere submitted and read from a handout (on file) and stated he supports a program called Parks for Homeless, which would manage temporary camps surrounded by fencing.

Amy Kahn stated constructing a jail is a public policy decision requiring a broader perspective. Don’t put forward a ballot measure on the details of a building without considering the larger criminal justice context. Hire a consultant for saving taxpayer money through alternatives to jail, such as a community court, crisis care facility, law enforcement diversion program, bail reform, risk assessment, and reentry program.

Anastacia Metcalf stated they need community services to work with the criminal justice system to prevent people from entering the system, especially youth.

David Wilbrecht, Blaine City Manager, stated the City of Blaine is satisfied with the development of the interlocal agreement.

Kris Halterman stated a triage center and restorative justice are issues separate from the jail. The longer a new jail is delayed, the more it is going to cost. Restorative justice is a great thing, but that has to be done through the State judicial system and State law. Move this forward now, and let the people vote on it.

Daron Smith, jail staff union representative, stated the County needs a new jail. The overcrowding affects the jail staff, who work ten to 12 hours per day. He described the conditions of the jail. The conditions are a powder keg ready to explode. Safer conditions for staff and inmates are the right thing to do. Build a facility the community needs right now. Diversion and alternative programs with proven, positive results are necessary and should be funded, but they shouldn’t delay the process of building a new jail.

Paul Myers, Whatcom County Civil Service Commission Chair, stated try to get this on the August ballot. The results of the fire drill were astounding, because it took too long to move the prisoners out of one set of doors and get the firefighters into the building through another set of doors. There’s no place to put the prisoners once they’re out of the building. The time has come to move the new jail project forward.

Riley Sweeney referenced the Jail Planning Task Force report, which recommends that space be found for a mental health triage facility. He supports the size of the jail and the vote in November, but a mental health triage center needs to be part of the package.
Look at the bail bond system in Kentucky. Commercial bail bonds people have been cut out of the system.

Karen Steen described time she spent working as a nurse with people with a mental illness. This problem began when the Federal government started defunding the mental health system. Come together and lead this nation on alternatives for people with mental illness instead of putting them in jail. She supports suggestions that have been made. Remove people with mental illness from the jail who need projection. Create an initiative and funding plan that addresses mental health needs separate from criminal incarceration. She also supports the recommendations of the Restorative Community Coalition phase one plan.

Ward Naviaux stated he is an emergency physician at St. Joseph Hospital. It’s important to include mental health and substance abuse triage facilities and manage those patients accordingly. People with mental illness and substance abuse issues are diverted from the jail into the emergency room, because they have no place else to go. They take up a disproportionate amount of time, preventing the hospital staff from caring for other trauma and medical patients.

Gaytha Weis stated the Council should institute a system that lets people know the Council has received their letters. Listen to experts who know how to do things that can help. Deter crimes before they take place, which requires community policing, not fancy office buildings. Address programs that meet the needs of people.

Josh Cerretti stated consider a program that eliminates cash bail entirely. Eliminate the bail bondsman. Instead, evaluate people based on their likelihood to appear and provide services during that time to address recidivism. Relieving jail overcrowding can be done by alternatives, not just by building a bigger jail. Consider alternatives to have fewer people in jail. The DLR Group is in the business of building prisons. The Sheriff is also asking for a new office. Think about how the proponents are invested. Don’t plan to incarcerate more people in the future. Plan to incarcerate fewer.

Deborah Hauley offered to meet with Council to provide examples of successful incarceration alternatives. She started an organization supporting prison reform. She supports the Restorative Justice Coalition. Only ten percent of jail populations are waiting to go to prison. Inmate families are unrecognized stakeholders and voices for the incarcerated.

Susanne Walker stated she has toured the jail. They keep talking about beds, but many inmates don’t sleep on beds. Also, the jail is one of the largest food services facilities in Whatcom county, but the kitchen and food storage is inadequate. The electronic system is decades old. People have to work in a facility that no one would want to work in. Provide a state-of-the-art, earthquake-proof facility with a kitchen adequate to feed the number of meals they prepare three times per day. Get the electronics up-to-date so there is safety equipment in the building. During her tours, the staff were kind, gentle, and positive with the inmates.

Chris Phillips, Peace Health Medical Center, stated he supports a new jail. There must also be a concurrent, substantive planning effort with a timeframe to create behavioral health diversion and treatment programs with people with severe mental illness and
substance abuse problems. Social justice must be a core value. Show compassion to those with behavioral health problems. Good stewardship of resources is also a core value. They understand physical constraints. A new jail is important for inmates and corrections staff. Peace Health would like an opportunity to be part of a concurrent planning process to develop diversion and treatment programs that will increase the likelihood of voter approval for a much-needed jail.

Charlie Storrs stated don’t rush into building a jail that must last 50 years. There is no reentry program for those getting out of jail. Consider a reentry program. People are not getting through the system in a timely manner. Find a way to incentivize the prosecutors and public defenders to move people through the system in a more timely manner. Also, remind people of their court dates.

Roger Hull stated he is a contractor. He read the construction information regarding the jail. He asked if there is a conflict of interest. The architecture firm has too much to gain by making this cost too much. The County needs an in-house facilitator to develop an appropriate budget. Don’t rely on the architect statement.

Dave Finet, Opportunity Council Executive Director, stated consider heavily the testimony from Mr. Phillips representing the Peace Health Medical Center. He supports the construction of a corrections facility. He would like to see a triage center expansion in phase one. Don’t wait for the new jail to open. The County needs to deal with diversion issues, but it needs to be done separately from the jail. Don’t disconnect diversion from jail construction. They are connected in terms of the future expansion plans of the jail.

Jaylia Lewis stated she wants to vote for both a new jail and also for alternatives, diversion, and restorative justice. This issue shouldn’t divide the community. Create bipartisan support.

Patrick Alesse stated everyone has provided great testimony.

Wendy Jones, Whatcom County Jail Chief of Corrections, stated people have spoken about excellent programs. They try jail alternatives and work with a variety of social services agencies. They can do more for the jail population by working together. The interlocal agreement will cover the bonding cost to build the new jail. There is no reason why they can’t also put forward jail alternatives and the triage center. Everyone who has spoken agrees they need a new jail. They must continue looking at diversion programs, strengthening the reentry programs they already have, and making sure they have facilities necessary to treat people who aren’t safe in the community. They cannot turn away the folks they get in the jail. They have booked individuals, held them, and treated them after these individuals have been told to leave and not come back to the detoxification center, hospital, homeless mission, and the Interfaith and SeaMar clinics. These are people with substance abuse or mental health issues who are so out of control and dangerous, that it’s not safe for community providers to try and help them. Make sure that the jail has robust programs to treat the people who are too ill to be anywhere else. They can do that collaboratively as a community. Executive Louws has brought forward a very good idea for moving both of those things tangentially.

Ronna Loerch stated violent mentally ill people do not belong in jail. They belong in a facility in the community for violent mentally ill people. If the County is afraid of what will
happen to people in the existing jail, then get people out of jail. Many people are in the jail just waiting for something to happen. Remove the nonviolent offenders. Hire a half-time person to make court appearance reminder calls. Read the material from Irene Morgan. The LEAD program for law enforcement diversion is a good program that reduces costs. The Homes First program is also successful in other cities. Good ideas have been presented tonight.

Terri Terry described her background working with offenders. The jail currently has programs to teach work skills, literacy, and parenting skills.

Michael Birch stated judges require cash because they want the person to stay. Don’t blame the lawyers and judges for continuances. In the last 20 years, there have been over 250 million arrests in the United States. The FBI maintains a criminal database with 77.7 million Americans on the list. In the United States, two people out of seven have a record, and one person in 12 has a felony. The jail is the chokepoint. Diversion programs are post-jail programs. They don’t take people off the street because they are mentally ill, poor, or stupid. They take people off the street because they commit crimes. They have to do something about the jail, which is deplorable. Most of the people in jail have not been convicted of a crime. Jail is not prison. Jail is for temporarily holding people. Most people are waiting for a hearing, and are presumed innocent. At the current arrest rate, one in 20 people will go to jail.

Elliot Fine stated the jail, built in the 1980’s, began falling apart when it was ten years old. Look into the cause of that, and don’t make the same mistake with the new jail.

Carol Perry stated the number one issue for government is public safety and law enforcement. There has been much information regarding building a new jail. People have argued against the jail location, size, architect, and other issues. It’s okay to eliminate anything else to pay for public safety and a jail.

Cliff Langley stated he was a corrections officer beginning in 1984. The current jail has had issues from the beginning. Those issues won’t go way. Delaying will just increase costs. Build the new jail. There are programs out there, and people will always offer these programs. Career criminals know they will be released from the jail because there is no room. That’s why there are so many failure to appear (FTA) warrants. If they want another program, look at the community policing program. Give the Sheriff more deputies for community policing.

Candice Wilson described her family’s background in law enforcement. Public safety is also about people who might be in a situation that is hurtful to themselves and others. Make sure elected officials listen to the people. The diverse population must be represented.

Hearing no one else, Weimer closed the public hearing.

Brenner stated it’s frustrating that they don’t have a lot of choices about who goes to jail. The municipalities have their own rules on what is a misdemeanor and who goes to jail. The County needs to talk with the municipalities about changes in terms of who goes to jail. They can work on a new jail and on alternatives at the same time without stalling anything. Also, a primary election is not the election that gets people engaged in what is
going on. She will not support putting the measure on an August election, but she will support a November election.

Buchanan stated he thanks the public for all of the information they provided.

Sidhu stated he also thanks the public. Ultimately, the citizens will pay for the jail for the next 30 years. Also, the community is very fortunate to have Executive Louws and Sheriff Elfo as leaders. This is not an easy project. The biggest message tonight is to not make this a divisive issue. They can collectively find solutions to all the issues.

Weimer stated he thanks everyone for speaking. A lot of smart people work for the County. They can work on both issues at the same time. They’ve heard a lot of heartfelt and encouraging testimony. The path forward is to do two things at once.

Jack Lowes, County Executive, stated he thanks the people tonight for speaking. There is a tremendous amount of information on the Executive’s website and Health Department’s website, and through the Council Office and Sheriff’s Office. His office answers questions via email. He thanked the Council for the afternoon work session. They will work together to develop a resolution that commits Whatcom County to fast-tracking the additional programs necessary in the future to augment the jail. There is a draft resolution for a diversion task force.

(Clerk’s Note: The Council took a break at 10:04 p.m.)

OPEN SESSION

The following people spoke:

- Rick Keen spoke about elected officials asking a person not to run for office and about the Council’s unwelcoming attitude about business.
- Wendy Czopp, Represent Whatcom County volunteer organizer, spoke about anti-corruption legislation.
- Keith Frederickson spoke about anti-corruption legislation.
- Ronna Loerch spoke about anti-corruption legislation and the proposed new jail.
- Jenny Bowfield spoke about anti-corruption legislation.
- Joy Gilfilan spoke about the Council’s work to keep up with issues and about problems with the system.
- Karen Steen spoke about anti-corruption legislation.
- Lynn Barton spoke about timing of the meeting’s open session.

Brenner stated the Council should consider having the open session at the beginning of the meeting.

CONSENT AGENDA

Browne reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one through seven.
Weimer withdrew item seven.

The motion to approve Consent Agenda items one through six carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

1. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN WHATCOM COUNTY AND SKAGIT COUNTY FOR USE OF THE PLANTATION RIFLE RANGE BY THE SKAGIT COUNTY SHERIFF’S DEPARTMENT FOR THE PURPOSE OF PROVIDING FIREARMS QUALIFICATIONS FOR COMMISSIONED AND NON-COMMISSIONED PERSONNEL, IN THE AMOUNT OF $7,973.50 (AB2015-125)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN WHATCOM COUNTY AND THE CITY OF BELLINGHAM FOR USE OF THE PLANTATION RIFLE RANGE BY THE BELLINGHAM POLICE DEPARTMENT FOR THE PURPOSE OF PROVIDING FIREARMS QUALIFICATIONS FOR COMMISSIONED AND NON-COMMISSIONED PERSONNEL, IN THE AMOUNT OF $26,895.50 (AB2015-126)

3. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SIEMENS INDUSTRY, INC., FOR THE TECHNICAL SUPPORT HVAC CONTROLS SERVICES AGREEMENT FOR THE COURTHOUSE, JAIL, JAIL WORK CENTER, NORTHWEST ANNEX, LOTTIE ANNEX, CENTRAL SHOP, EAST WHATCOM REGIONAL RESOURCE CENTER, FOREST STREET ANNEX, AND CIVIC CENTER ANNEX, IN THE AMOUNT OF $148,503.77 (AB2015-127)

4. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AUTHORIZE PURCHASE OF WATERBORNE TRAFFIC LINE PAINT FOR 2015 USING AN INTERLOCAL AGREEMENT WITH PIERCE COUNTY AND VENDOR ALPINE PRODUCTS, INC. (AB2015-128)

5. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AUTHORIZE PURCHASE OF WATERBORNE TRAFFIC LINE PAINT FOR 2015 USING AN INTERLOCAL AGREEMENT WITH LEWIS COUNTY AND VENDOR SHERWIN WILLIAMS (AB2015-129)

6. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT FOR SERVICES AGREEMENT BETWEEN WHATCOM COUNTY AND ATTORNEY CURT WYRICK FOR REPRESENTATION IN THE BRITISH PETROLEUM ASSESSMENT APPEALS IN CONJUNCTION WITH THE WHATCOM COUNTY PROSECUTOR’S OFFICE, IN THE AMOUNT OF $54,500 (AB2015-130)

Browne reported for the Finance and Administrative Services Committee and moved to approve the request.
Weimer stated he is opposed to this item.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, and Kremen (6)
Nays: Weimer (1)

7. REQUEST APPROVAL TO AMEND THE CONTRACT BETWEEN WHATCOM COUNTY AND VAN NESS FELDMAN, LLC, FOR OUTSIDE LEGAL REPRESENTATION, IN THE AMOUNT OF $10,000, FOR A TOTAL AMENDED CONTRACT AMOUNT OF $150,000 (AB2014-136B)

OTHER ITEMS

1. ORDINANCE AUTHORIZING AMENDMENT NO. 2 TO ORDINANCE 2014-11, ESTABLISHING THE DAKOTA CREEK BRIDGE NO. 500 PROJECT FUND AND BUDGET (AB2015-120)

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated she would like to vote on Other Item number three before voting on this item and the next item.

2. ORDINANCE AUTHORIZING AMENDMENT NO. 1 TO ORDINANCE NO. 2014-012, ESTABLISHING THE SLATER ROAD INTERSECTIONS, IMHOFF ROAD AND FERNDALE ROAD, CRP NO. 910003 PROJECT BUDGET (AB2015-121)

Brenner stated contracts now come back to the Council, so she can vote for it.

Mann stated he will not vote for this ordinance. It’s an unnecessary expenditure.

The motion carried by the following vote:

Ayes: Brenner, Sidhu, Browne, Buchanan, Weimer and Kremen (6)
Nays: Mann (1)
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.

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

3A. ORDINANCE AMENDING WHATCOM COUNTY CODE 3.08, PURCHASING SYSTEM (AB2015-042) (EXECUTIVE PROPOSAL)

This item was not discussed.

4. ORDINANCE AMENDING THE 2015 WHATCOM COUNTY BUDGET, FOURTH REQUEST, IN THE AMOUNT OF $1,444,000 (AB2015-119)

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

5. CONSIDERATION OF SETTLEMENT AGREEMENT RELATED TO GROWTH MANAGEMENT HEARINGS BOARD CASE NO. 11-2-0010C (AB201015-135)

Brenner moved to approve the agreement.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

EXECUTIVE APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

1. REQUEST CONFIRMATION OF THE COUNTY EXECUTIVE’S APPOINTMENTS TO THE NORTHWEST SENIOR SERVICES BOARD (AB2015-131)

Brenner moved to confirm the appointment.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

ADOPTION OF 2014 COMPREHENSIVE PLAN AMENDMENTS

1. ORDINANCE REPEALING THE 1994 ELIZA ISLAND PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN AND ZONING CODE RELATING TO THE PLAN (AB2014-196)
**Brenner moved** to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
- **Nays:** None (0)

2. **ORDINANCE REPEALING THE 1991 SOUTH FORK VALLEY SUBAREA PLAN AND AMENDING PROVISIONS IN THE WHATCOM COUNTY COMPREHENSIVE PLAN RELATING TO SUBAREA PLANS (AB2014-197)**

**Browne moved** to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
- **Nays:** None (0)


**Buchanan moved** to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
- **Nays:** None (0)


**Brenner moved** to adopt the ordinance.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
- **Nays:** None (0)

**Kremen moved** to approve all four amendments concurrently.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
- **Nays:** None (0)

**INTRODUCTION ITEMS**

**Buchanan moved** to accept the Introduction Items.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

1. ORDINANCE AMENDING THE 2015 WHATCOM COUNTY BUDGET, FIFTH REQUEST, IN THE AMOUNT OF $136,500 (AB2015-132)

2. ORDINANCE RESOLUTION AMENDING THE 2015 WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT BUDGET, FIRST REQUEST, IN THE AMOUNT OF $80,000 (AB2015-133) (COUNCIL ACTING AS THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS)

3. RECEIPT OF APPLICATIONS FOR THE SUMAS/EVERSON/NOOKSACK FLOOD SUBZONE, APPLICANTS: JERRY JUERGENS, LARRY MADE S AND THOMAS SWARTWOOD (AB2015-089) (APPLICATION DEADLINE FOR ANY OTHER APPLICANTS TO THIS VACANCY IS 10 A.M. ON APRIL 21, 2015) (COUNCIL ACTING AS THE WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS)

COMMITTEE REPORTS


Brenner reported for the Public Works, Health, and Safety Committee on the discussion regarding a proposed ordinance establishing parking restrictions on Bennett Drive (AB2015-118), the presentation by Rob Nye, Public Works Special Programs Manager, on the ferry operations report for Fiscal Year 2014 (AB2015-074A), and the issue of Round Up herbicide. They are waiting for an Environmental Protection Agency (EPA) report.

Weimer reported that they are moving forward with hiring the new Council policy analyst. The Chair and one other councilmember will do the interviews.

Mann volunteered to be an interviewer.

Buchanan nominated councilmember Mann.

Brenner stated she doesn’t support hiring the position, so she won’t support this motion.

The motion carried by the following vote:

Ayes: Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (6)

Nays: Brenner (1)

Browne asked what happens after Councilmembers Weimer and Mann conduct the interviews.

Kremen stated it’s inappropriate to have councilmembers involved besides the two in the interview process, but it might be beneficial to have a reception for the two or three finalists. Allow the councilmembers to give an opinion before the final decision is rendered.
Dana Brown-Davis, Clerk of the Council, stated there is one more step where all councilmembers are involved. The Council wouldn’t rely on Councilmembers Weimer and Mann to make the final decision.

Mann asked if the Council needs to decide on that step now. Brown-Davis stated it doesn’t.

UPDATES AND OTHER ITEMS FROM COUNCILMEMBERS

Brenner stated the anti-corruption resolution is a good idea.

Sidhu stated he suggests that the Council purchase a Bellingham Herald online group subscription.

Browne asked if they should also subscribe to the other newspapers.

Kremen stated they should subscribe to all the weekly newspapers.

ADJOURN

The meeting adjourned at 11:02 p.m.

The County Council approved these minutes on ______, 2015.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

______________________________  ___________________________
Dana Brown-Davis, Council Clerk   Carl Weimer, Council Chair

______________________________
Jill Nixon, Minutes Transcription
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, Barry Buchanan, Ken Mann and Carl Weimer
Absent: Pete Kremen and Rud Browne

SURFACE WATER WORK SESSION (AB2015-024)

1. COORDINATED WATER SYSTEM PLAN UPDATE

Gary Stoyka, Public Works Department, stated work is proceeding on the update. Working groups are addressing design standards, fire flow, and procedures for directing permit applicants to a water source. The next Water Utility Coordinating Committee (WUCC) meeting is May 20. They have done a lot of the groundwork, and a lot of text will come out in June or July.

Brenner stated the fire marshal told a pot farm that it must have 80,000 gallons of water. She asked if exceptions can be made to that. Stoyka stated there are options for reaching that fire flow, such as proximity to a hydrant and building designs. The fire marshal has the discretion to achieve those goals.

2. DISCUSSION WITH PLANNING UNIT

Gary Stoyka, Public Works Department, stated the next Planning Unit meeting is April 29. They have selected a facilitator, and the contract is coming forward. The consultant is a local firm called Veda Environmental. There were many good applicants.

The Joint Board is discussing the future of the Joint Board. The staff team has to look at different options, and there will be a presentation at the work session in May. Groundwater modeling is proceeding. There is no money beyond 2015. The next Joint Board meeting will be in June or July.

Brenner stated that if the Joint Board continues, Joint Board contracts must go to the County Council for approval first, as it is supposed to do now. She asked if that is back in the program. Stoyka stated they haven’t gotten to those details. It’s his understanding that the Joint Board issues contracts. Staff has been making an effort to inform the Council of upcoming Joint Board agendas.
Brenner stated it’s supposed to go to the Council for discussion and approval.

Sylvia Goodwin, Planning Unit Port of Bellingham caucus member, submitted and read from a presentation (on file). They have received re-engagement documentation from the private well, environmental, agriculture, and non-government water caucuses. They have not yet received documentation from the forestry or fisheries caucuses.

The Planning Unit has already achieved objective one of its work program. The Planning Unit has had several discussions on objective two regarding instream flows, and will continue working on it. Their goal is to create a position paper on instream flow. They will begin working on or have already started working on objectives three through six.

The Planning Unit reviewed how each task in the detailed Planning Unit work program relates to items in Resolution 2015-004. The Planning Unit prioritized some of its tasks so it can give the County Council the input it has requested. A lot of people are involved in this right now, so they must all put together their collective knowledge as they move through the work plan.

The Planning Unit members are working on the tasks related to the compliance program. Skip Richards created an analysis of each section of the watershed master plan, determining the status and what else needs to be done. The Planning Unit is going to work on that document section-by-section. They have also talked about instream flow.

The Planning Unit has discussed low impact development and will coordinate with the Planning Department, Public Works Department, each City, which all have regulations regarding low impact development. The Planning Unit needs input from everyone, including the Port of Bellingham, about what they are doing.

Brenner asked if the Planning Unit will get into the specifics of low impact development ideas or just inventory what is being done. Goodwin stated that if each City and County is handling low impact development, the Planning Unit may just need to compile a list of what everyone else is doing. If they find things lacking, there may or may not be discussion about low impact development processes.

Robin Dexter, Planning Unit member, stated the list of priorities came out of the 2005 work plan, right at a point when funding was diminishing for this kind of planning. They became stuck on some very hard issues. No one wanted to talk about compliance, because that meant shutting off water to farmers who were not permitted for it, for example. To put the Planning Unit’s lack of progress in perspective, keep in mind that there are comprehensive plan reviews for the County, the City of Bellingham, and the hospital. There is a lot of demand on the time of planners. The Planning Unit wants to create a status report on all of these things, but that requires staff time that isn’t available. In the meantime, the caucuses are picking through a lot of the work that has gone on. They will do their best to come up with a consensus report on all these issues as individual caucuses push them forward. He will suggest to the Planning Unit that it get those updates jointly with the Council when they can agree on what’s really needed to report to the Council. None of this has been funded adequately. The plan follow-up has been lost. It’s taken a year to orient all the new Planning Unit members on what came before. They’re now at the point of wanting to attack some of these intractable issues. It takes time for the Planning Department to get feedback to the Planning Unit. The Planning Unit members are also
engaged in all these comprehensive plan updates. When going through updates from the planners on the Comprehensive Plan, ask about things like natural resources policy integration, and whether someone is bringing the water issue forward regarding land use. It’s just as easy for the Council to ask about these things as it is for the Planning Unit to ask.

Weimer asked if the Planning Unit is frustrated that it can’t access information from the planners sooner. Dexter stated it isn’t. No one is refusing the Planning Unit.

Weimer stated they’ve been told that they need to be doing more low impact development in rural areas that fall outside of the stormwater areas. He would like to know if that’s true. Dexter stated part of the frustration is that it is time consuming to go through the information. He’s looking for low impact development in the list of projects that will eventually wind up in the Comprehensive Economic Development Plan, which is yet another plan they’re working on. That plan came with a list of projects. The whole need for a Comprehensive Economic Development Plan is to qualify for transportation money. There isn’t enough information to know whether people are doing low impact development with regard to these projects. That’s the disconnect. There aren’t a lot of models for this. The original natural resources policy coordination and integration item had a lot to do with coordinating local, federal, and state agencies. Beyond that, it’s a good idea to coordinate water planning and land planning, and make sure the traffic planners aren’t doing something completely opposed to the water planners. That’s the kind of thing that’s difficult to find out, and then to come up with a reporting mechanism. When budgeting, compliance and long-term monitoring are key.

Goodwin continued the presentation. The Planning Unit members need to read all the documents regarding local policies, plans, programs, projects, and ordinances to verify how they relate to each other. She hopes the County planners are also reading and aware of the watershed information and thinking about how land use and population distribution relate to the availability of water supply. There is a tight timeframe to get all these plans done. Collectively, they need to read each other’s documents to make sure they’re consistent. Most big projects have agencies looking at water quality, habitat, and wetlands altogether. It’s the small, incremental projects that may not be adequately reviewed. A high priority of the Planning Unit is to review all of those documents.

The Planning Unit provides a little time for public involvement. Once they have something to involve people in and educate people about, they will consider the best way to involve the public more.

Weimer stated the education component is also about determining what the County and the Cities are doing to let people know about these issues. Goodwin stated the Planning Unit could broaden its outreach to the Cities and the County to find out what it’s doing about public education in addition to low impact development. Water districts also put out public education about water. They need to find out who is doing what.

Brenner asked if the County can require the jurisdictions to provide all this information on things such as public involvement and education regarding water issues and low impact development through the 2016 Comprehensive Plan update process.
Mark Personius, Planning and Development Services Department, stated they can coordinate that through the City/County planners group, which meets monthly as part of the update process.

Goodwin stated she could attend one of those meetings, and they can just have a conversation about it, rather than trying to send everyone a survey and get the information back. The Planning Unit invites Mr. Personius to attend a Planning Unit meeting to talk about these things.

Skip Richards, Planning Unit member, stated water use efficiency in the 2005 watershed management plan arose from a 2003 action by the legislature and was delegated to the Water Utility Coordinating Committee (WUCC). That’s where the focus should be.

Goodwin concluded the presentation regarding the Lower Nooksack Strategy.

Mann stated he appreciates the Planning Unit members for their presentation, and invited them to attend future work sessions.

Weimer asked if the Planning Unit members were asking to transition the Planning Unit to an advisory committee. Dexter stated they have gotten a legal opinion about their ability to plan under Engrossed Substitute House Bill (ESHB) 2514. They are trying to permanently rebuild the institutional memory on what has been done regarding water. He anticipates they will ask for funding to do that. Half the people who are working on the governance and funding subcommittee are content to retain their ability to operate under ESHB 2514. Other members of the subcommittee believe that the Council will feel more compelled to pay attention to their budget requests if they were an actual advisory committee.

Goodwin stated the strategy now is to let it go and get on with it. To the extent the Planning Unit provides the Council with good information, it is an advisory committee.

Richards stated the Planning Unit and Joint Board should work together on issues within their scope, and the staff team should support both of them.

3. POLLUTION IDENTIFICATION & CORRECTION (PIC) PROGRAM UPDATE

Erika Douglas, Public Works Department, submitted and read from a presentation (on file). This program primarily focuses on bacterial issues, but water quality is also important for recreational uses, drinking water, agricultural uses, and shellfish. When they invest in the PIC program, they can reopen closed shellfish beds. They are going to use a local data-driven process to identify potential sources of bacteria, and work with landowners in a cooperative and voluntary process to try to correct those sources.

Brenner asked if people are responding to the surveys. Douglas stated they received a decent response to the landowners survey last year. It helped them get an idea of what people are interested in and what their concerns and observations are.

Brenner stated she attended a Ten Mile watershed group meeting, at which there were some long-term farmers who attended. Those farmers said they know who the problem farmers are. There are few, but they are bad offenders. She was surprised to hear
that they know. Douglas stated it depends on the drainage they’re working in. That’s why
they take a close look at each drainage.

Brenner stated the farmers get blamed a lot. There are a few who aren’t engaging in
good pollution control, and they give all farmers a bad name. It’s time to change that
attitude. Douglas stated they are working collaboratively with community groups. In some
areas, it works fine to have a government agency make contacts with landowners. In other
areas, that isn’t as acceptable. They are working to build a networking system to reach out
to landowners.

Douglas continued the presentation on the non-dairy livestock component with the
Conservation District.

Brenner stated the Conservation District did great working with people in a particular
area, but the Department of Ecology was sending out threatening letters at the same time.
She asked if that’s been fixed. Douglas stated the County and Conservation District are
taking the lead in these focus areas. People will only hear from the Department of Ecology
if they have not chosen to participate in a voluntary program, and there is a clear discharge.
There are areas in the Drayton Harbor watershed that are outside the current focus areas,
and Ecology would respond to complaints in those areas. Ecology will send any complaints
within the focus areas to the County.

Douglas continued and concluded the presentation and submitted information (on
file) on the water quality status for Drayton Harbor and the Nooksack River watersheds.

George Boggs, Conservation District, submitted handouts (on file) and stated they
are trying to work with landowners in a respectful manner. He appreciates the contract with
the County. They are bringing other grant funds to the project. They must respond to
other agencies, also. People have to step forward to volunteer to do farm plans. The
community is interested. (Inaudible.) There is an additional $4 million in cost share being
made available to folks in these circumstances.

4. FLOOD SYSTEMWIDE IMPROVEMENT FRAMEWORK (SWIF) UPDATE

Paula Cooper, Public Works Department, described the levee rehabilitation program.
When a flood happens, if there is more than $15,000 in damage, the U.S. Army Corps of
Engineers will assess the damage, develop a design, and pay 80 percent of the cost of
repairs. When she began, there were eight levees in the program. There are 33 levees in
the program now. Since Hurricane Katrina, the Corps has been more rigorous about doing
inspections every two years. In 2010, they identified about 80 deficiencies on the 33 levees
and gave the County two years to resolve the deficiencies. The Corps offered this system-
wide improvement framework process. She submitted and read from a presentation (on file)
on the SWIF program. They set up technical teams for each reach of the river, one team for
vegetation and habitat, and one team for funding. The Corps used to require that any levee
with trees on it would be kicked out of the program. However, they’ve changed that
requirement. Having a tree is not considered a deficiency unless it’s leaning, or there is
scour around it, or it is actually threatening the levee. The SWIF will contribute to the
broader Comprehensive Flood Hazard Management Plan (CFHMP) update. The diking
districts wanted to get their work done without having to do a lot of permitting, so a
subcommittee of the team created the permit streamlining plan for Nooksack River levees (on file).

She described the SWIF Reach Team progress for the Reach 4 team working on the Deming to Everson reach.

Mann asked the assessed value of all the property in that area they’re trying to protect. Cooper stated the CFHMP will have that information when it’s updated.

Mann stated they sometimes spend more to protect property than the property is worth. He would like to know how much those properties would cost to buy them.

Cooper concluded the presentation on the reach team action plans, potential funding sources, and next steps.

Weimer asked if other counties in the region are having the same deficiencies and going through the same process. Cooper stated they are. Whatcom County was one of two pilot basins and received $300,000 from the Puget Sound Partnership that has funded a lot of the consultant work.

Brenner asked if they will be eligible for State assistance. Cooper stated the Floodplains by Design program funding may be available.

Brenner asked about the mole control program. Cooper stated they hired an animal control service to put percussion gas in the mole hole, which worked better than poison.

Buchanan asked if there are estimated completion dates for the items listed as next steps. Cooper stated they are trying to complete the entire SWIF plan by June 2016. She’s trying to finish up with the teams that are doing the comprehensive work. They will work with the districts this summer and get a lot done. The vegetation work will probably take several years. They will prioritize the maintenance work based on risk.

Brenner stated it sounds like there still plans to be a lot of tree removal on the levees. Cooper stated it is only on the upper five to 15 feet of the levee. It was a negotiated design. Trees will remain below that level.

Mann asked if there is science that they can all agree on. Cooper stated there is not a whole lot of science to suggest that trees are bad, but the Corps doesn’t take that approach.

Mann stated that if it was self-evident that trees are good on a levee, there would be some buy-in from the scientific experts.

Brenner stated the Corps deals mostly with levees in other areas of the country that have nothing to do with the kind of vegetation that exists locally.

Cooper stated there’s not as much science as one would expect.

Brenner stated it’s a one-size-fits-all decision.
Karen Brown, Planning Unit Member, stated the Floodplain by Design fund may be cut next year.

Cooper stated the County doesn’t have an active application. If the program can get funded again, they may have a stable program for integrated flood projects. This is the first time they are considering integrating fish, farm, and flood components. She hopes the funding will be restored.

George Boggs, Conservation District, stated a local contingent spoke to Senator Erickson about the Floodplain by Design program. He was invited to provide input to make sure there is adequate criteria that includes farms, fish, and floods. The Council must ask the Senator to reconsider his position on that program. There is significant U.S. Department of Agriculture (USDA) funding to help with some of these projects.

**ADJOURN**

The meeting adjourned at 12:30 p.m.

The Council approved these minutes on _____________, 2015.

ATTEST:      WHATCOM COUNTY COUNCIL
             WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk  Carl Weimer, Council Chair

Jill Nixon, Minutes Transcription
WHATCOM COUNTY COUNCIL
Committee Of The Whole

April 28, 2015

CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 6:31 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Satpal Sidhu, Rud Browne, Barry Buchanan, Ken Mann, Pete Kremen and Carl Weimer

Absent: None

COMMITTEE DISCUSSION

1. DISCUSSION WITH CHIEF CIVIL DEPUTY PROSECUTOR DANIEL GIBSON REGARDING TWO CASES OF PENDING LITIGATION (RUTH VS. WHATCOM COUNTY; BECKER VS. WHATCOM COUNTY) (AB2015-018)

Attorney Present:

Weimer stated that discussion of agenda item one may take place in executive session pursuant to 42.30.110 (1)(i). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Mann moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:

Ayes: Sidhu, Brenner, Browne, Buchanan, Mann, Kremen and Weimer (7)
Nays: None (0)

OTHER BUSINESS

ADJOURN

The meeting adjourned at 6:43 p.m.

The Council approved these minutes on ______ 2015.

ATTEST: WHATCOM COUNTY COUNCIL WHATCOM COUNTY, WASHINGTON
CALL TO ORDER

Council Chair Carl Weimer called the meeting to order at 6:30 p.m. in the Council Conference Room, 311 Grand Avenue, Bellingham, Washington.

ROLL CALL

Present: Barbara Brenner, Satpal Sidhu, Rud Browne, Barry Buchanan, Ken Mann, Pete Kremen and Carl Weimer

Absent: None

COMMITTEE DISCUSSION

1. UPDATE ON THE LUMMI ISLAND FERRY LEASE RELATING TO THE LUMMI NATION MARINA PROPOSAL (AB2015-018)

Attorney Present: None

Weimer stated that discussion of agenda item one may take place in executive session pursuant to RCW 42.30.110(1)(i). Executive session will conclude no later than 7:00 p.m. If the meeting extends beyond the stated conclusion time, he will step out of the meeting to make a public announcement.

Browne moved to go into executive session until no later than 7:00 p.m. to discuss the agenda items pursuant to RCW citations as announced by the Council Chair.

The motion carried by the following vote:

Ayes: Sidhu, Browne, Buchanan, Mann, and Weimer (5)

Nays: None (0)

Absent: Brenner (out of the room) and Kremen (out of the room)(2)

OTHER BUSINESS

ADJOURN

The meeting adjourned at 6:58 p.m.

The Council approved these minutes on ______ 2015.

ATTEST: WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
**TITLE OF DOCUMENT:** A Resolution Vacating a Portion of Delta Line Road.

**ATTACHMENTS:**
1. Cover Memo
2. Resolution
3. Neighboring Land Owner's Petition
4. Map of Site
5. Engineer's Report
6. Comparative Market Analysis

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>(X) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>(X) Yes</th>
<th>( ) NO</th>
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<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date: 3-26-13</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.)

The attached Resolution Vacating a Portion of Delta Line Road is submitted per RCW 36.87 and WCC 12-20.

The County Engineer's report has been prepared and is being submitted in favor of this road vacation. A public hearing will need to be scheduled.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
6/23/2015: Introduced 7-0

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.
SPONSORED BY: ________________
PROPOSED BY: ____ Public Works ____
INTRODUCTION DATE: ________

RESOLUTION NO. ____________

A RESOLUTION VACATING A PORTION OF DELTA LINE ROAD

WHEREAS, on January 28, 2015, Scott Loomer and Iris Loomer, et.al., submitted a petition for the vacation of a portion of Delta Line Road lying within the unincorporated area of Whatcom County, accompanied by the penal sum of $790.00, and,

WHEREAS, as described in RCW 36.87.010, when a county road or any part thereof is considered useless the Whatcom County Council may declare its intention to formally consider vacation, by resolution.

WHEREAS, the County Council voted 6-0 on March 31, 2015, to consider this vacation request and directed the County Engineer’s office to report; and

WHEREAS, the County Engineer’s office has reviewed the portion of the street which is a Class A-1,6 right-of-way, wherein public expenditures were made, no part thereof lies in any plat, and it was abandoned in fact due to relocation of right-of-way, and in the exercise of his judgment has determined the public will benefit from said vacation; and

WHEREAS, it’s unknown if there are public utilities located within the portion of the right-of-way to be vacated, but an easement for said utilities will be retained by the County, and

WHEREAS, the fair market value has been determined to be $2.53 per square foot for 15,440 square feet included within this portion of Delta Line Road, making the total value of the area to be vacated $39,063.00; and

WHEREAS, the County Engineer has reviewed said compensation and determined it to be fair value; and

WHEREAS, the petitioner has met all of the petition requirements, as set forth by Chapter 12.20 Whatcom County Code, and all other applicable laws; and

WHEREAS, the applicant has six calendar months from the date of the Preliminary Order of Vacation to pay any remaining fees to the Whatcom County Council office, which checks should be made payable to the Whatcom County Treasurer, prior to the vacation becoming effective, including but not limited to the appraised value of the area sought to be vacated; and

WHEREAS, this vacation does not become effective until the fees are paid and the Final Order and Resolution are recorded with the County Auditor;
NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to vacate the following described right of way:

A tract of land within the southeast quarter of the southeast quarter of Section 1, Township 39 North, Range 1 East of W.M., and within the southwest quarter of the southwest quarter of Section 6, Township 39 North, Range 2 East of W.M. being more particularly described as follows:

Commencing at the Section corner common the Sections 6 and 7, Township 39 North, Range 2 East, W.M., and Section 1 and 12, Township 39 North, Range 1 East of W.M.; thence North 01°49’50” East, along the section line common to said Sections 6 and 1, a distance of 30.00 feet to a point on the North right-of-way of Grandview Road, said point being the True Point of Beginning; thence North 89°01’52” West, along the north right-of-way line of Grandview Road, a distance of 20.00 feet to an intersection with the west right-of-way line of Delta Line Road; thence North 01°49’50” East, along the west right-of-way line of Delta Line Road a distance of 317.05 feet; to a point on the south right-of-way line of that certain right-of-way granted to the public by deed dated August 3rd, 2005 and recorded under Whatcom County Auditor’s File Number 2050802925; thence Northeasterly along a curve to the left which radius point bears North 44°24’28” West 180.00 feet, an arc distance of 32.06 feet through a central angle of 10°12’16” to a point on the section line between aforesaid Sections 6 and 1; thence continuing along said curve to the left an arc distance of 97.17 feet through a central angle of 30°55’52” to a point on the east right-of-way line of Delta Line Road as depicted and dedicated on the “Grandview Light Industrial Park General and Specific Binding Site Plan” as per the map thereof recorded under Whatcom County Auditor’s File Number 920110138; thence South 01°46’36” West a distance of 201.31 feet to the southwest corner of Lot 21 of said “Grandview Light Industrial Park”; thence South 88°37’32” West a distance of 10.02 feet; thence South 01°49’50” West a distance of 229.97 feet to a point on the north right-of-way line of Grandview Road; thence South 88°30’04” West a distance of 20.03 feet to Point of Beginning. Containing 15,440 square feet more or less.

SUBJECT TO and/or together with all easements, covenants, restrictions, and/or agreements of record or otherwise; and

SUBJECT TO an easement retained by the County in respect to the vacated portion of right-of-way for the construction, repair, and maintenance of any and all public utilities and services, now located on or in the vacated portion.

BE IT FURTHER RESOLVED that upon applicants’ completion of payment for the property and of all other fees, a Final Order of Vacation shall be prepared by Council Staff, signed by the appropriate parties, and recorded with the County Auditor; and
BE IT FURTHER RESOLVED that if the conditions set forth above are not fulfilled within six months from the date of the passage of this Resolution, the Preliminary Order of Vacation which is hereby authorized shall be withdrawn, and the right-of-way shall not be deemed to have been vacated.

APPROVED this _____ day of ______________, 2015

ATTEST:

WASHINGTON

Dana Brown-Davis, County Clerk

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Chief Civil Deputy Prosecutor
MEMORANDUM

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

Through: Jon Hutchings, Director

From: Andrew Hester, Public Works Real Estate Coordinator

Date: June 8, 2015

Re: A Resolution Vacating a Portion of Delta Line Road

The attached petition asks for vacation of approximately 15,440 square feet of right of way, more or less, of Delta Line Road.

Based on a Fair Market Valuation (FMV) of surrounding comparable properties, the estimated value of the area to be vacated is approximately $39,063.00.

- **Recommended Action**
  The County Engineer’s report has been prepared and is being submitted in favor of this road vacation. It is recommended that the County Council set a hearing date for the requested vacation, publish the vacation request, and direct County staff to post the appropriate public notices.

Please contact me at extension 50571 if you have any questions regarding this action.

Encl.
REPORT OF THE COUNTY ENGINEER
(Whatcom County Code 12.20.050)

IN THE MATTER OF THE VACATION OF A COUNTY

ROAD A portion of Delta Line Road No. 146

COUNTY ENGINEER'S REPORT

PETITIONED BY Scott Loomer and Iris Loomer et al.

I, the undersigned County Engineer of Whatcom County, State of Washington, being duly directed by the Whatcom County Council to examine and report on County Road Delta Line Road No. 146, proposed for vacation by the petition of Scott Loomer and Iris Loomer et al., did examine said road and report as follows:

IN FAVOR X

Said road should be vacated.

Fair Market Value (12.20.060 E)

0.35 acres (15,440 sq ft) @ $39,063.00

NOT IN FAVOR ___

Said road should not be vacated.

Said road is now in use as a County road.

1. It will be advisable to preserve this road.

2. The public will not be benefited by this vacation.

Classification (12.20.060 F)

<table>
<thead>
<tr>
<th>Class</th>
<th>XX</th>
<th>Description</th>
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<tr>
<td>Class A</td>
<td>XX</td>
<td>Public expenditures made</td>
</tr>
<tr>
<td>Class B</td>
<td></td>
<td>No public expenditures made or non-ascertainable from records</td>
</tr>
<tr>
<td>Class 1</td>
<td>XX</td>
<td>No part thereof lies in any plat</td>
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<tr>
<td>Class 2</td>
<td></td>
<td>Part or all lies within a platted subdivision</td>
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<tr>
<td>Class 3</td>
<td></td>
<td>Did not remain unopened for public use for five or more years after the order made or authority granted for opening it.</td>
</tr>
<tr>
<td>Class 4</td>
<td></td>
<td>Remained unopened for public use for five or more years after the order made or authority granted for opening it.</td>
</tr>
<tr>
<td>Class 5</td>
<td></td>
<td>Is contained within that portion of a plat which is to be replatted</td>
</tr>
<tr>
<td>Class 6</td>
<td>XX</td>
<td>Abandoned in fact due to relocation of right-of-way</td>
</tr>
<tr>
<td>Class 7</td>
<td></td>
<td>Informalities exist in the records of title which are construed to invalidate and divest the public of any right, title, or interest in the right-of-way.</td>
</tr>
</tbody>
</table>

The public will be benefited by this vacation. yes X no ___

[Signature]

Whatcom County Engineer

6/8/5

Date
COMPARATIVE MARKET ANALYSIS – BRIDGEWATER STREET (SHIPYARD ROAD)
AND DEARBORN AVENUE ROAD VACATION PETITION

PETITIONER: Scott Loomer and Iris Loomer et. al
PROPERTY LOCATION: In the vicinity of the intersection of Vista Drive and Grandview Road
OWNER NAME: Whatcom County
CURRENT USE: Road Right-of-way
AREA ZONING: Light Impact Industrial (LII)

BACKGROUND:
Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, Scott Loomer and Iris Loomer et. al. are petitioning the County to vacate an area of approximately 15,440 square feet, more or less, of Delta Line Road right-of-way.

SALES RELIED ON:
Two comparable land sales were used to prepare this market evaluation of the subject property and they sold between December 2012 to January 2014. Sale prices ranged from $3.42 to $3.99 per square foot. Due to the limited amount of comparable land sales available, the assessed land value of the parcels involved in the road vacation were considered as well.

Comparable #1 is located at 2673 Delta Ring Road, approximately 3,200 feet north of the subject property. It is approximately 1.14 acres and is vacant land. It sold on January 24, 2014 for $170,000 or $3.42 per square foot.

Comparable #2 is located at 6990 Salashan Parkway, approximately 1,800 feet north of the subject property. It is approximately 4.31 acres and is vacant land. It sold on December 18, 2012 for $750,000 or $3.99 per square foot.

An extensive search for other comparable land sales in the vicinity was completed but other than the above comparable properties no other properties that matched the subject’s zoning were found. The average assessed value of the land of the three parcels involved in the road vacation (390206015071, 390101518015, 390206015014) is $2.53 per square foot. Comparable properties 1 and 2 have the same zoning as the subject property and are located fairly close, however; they are both located in established industrial park developments with established utilities and access and are thus superior to the subject property. Because of those factors the averaged assessed value of land of the parcels involved in the proposed road vacation was considered and is relied on most heavily for the Fair Market Value.

RECOMMENDED COMPENSATION TO COUNTY for 15,440 net square feet X $2.53 PSF = $39,063.00

Prepared By: ____________________________ Date: 6-8-2015
Andrew Hester, Real Estate Coordinator
Whatcom County Public Works

This market analysis does not constitute an appraisal as defined by USPAP.

322 N. Commercial Avenue, Suite 110, Bellingham, WA 98225
BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS
a portion of Delta Line Road No. 146

Petitioned for by:
Scott and Iris Loomer,
Marc R. Perry dba, Perry Pallet LLC,
Joseph & Dorothy Massett

PETITION FOR VACATION
OF PLATTED ROAD

(RCW 58.17 AND 36.87)

Pursuant to Whatcom County Ordinance No. 1-72, dated February 14, 1972, the undersigned and those signing attached petition; which bears signatures and property descriptions of five land owners residing in the vicinity of said road, request vacation of the county road hereinafter described, and agree with the statements below:

1. Petitioners are residents of Whatcom County and owners of real property in the vicinity of the road sought to be vacated.

2. The road sought to be vacated is legally described as follows:
   (see Exhibit A Road Vacation – Land description and Exhibit B Map)

3. The pertinent facts in support of this petition are:
   In February 2004, Whatcom County Ordinance 2004-008, Whatcom County closed Delta Line Road from SR548 to 0.13 miles north of SR548 to vehicular traffic. In 2005, Whatcom County was warranted a deed for public right-of-way to connect Delta Line Road with Vista Drive. The construction of road within this right-of-way continued to effectively abandon that portion of Delta Line Road from the new right-of-way south to Grandview Road. Scott and Iris Loomer are the owners of lands abutting the west side of this abandoned portion. Marc Perry dba, Perry Pallet LLC owns land abutting the northeast side of this abandoned portion. Joseph and Dorothy Massett are the owners of land abutting the southeast side of this abandoned portion.

4. The road to be vacated is useless as a part of the County road system and the public will benefit by its vacation and abandonment.

According to Whatcom County Development Standards, Chapter 5, Road Standards, M (6)(b):
Minimum centerline offset of adjacent roads/streets from an intersection or low speed curve: Access streets, neighborhood collectors and collector streets, crossing or connecting to any neighborhood collector, collector or arterial; or arterials intersecting arterials: 300 feet. This portion of Delta Line Road has only 217 feet of separation from the intersection of Vista Drive and Grandview Road. This does NOT meet Whatcom County Development Standards.

Additionally, Grandview Road is State Route No. 548. It is listed as a Class 2, which the state requires 660 feet between access points (including roads.) The intersection of Delta Line Road and Grandview Road does NOT meet state guidelines.
This portion of Delta Line Road is useless as part of the County and State road system, especially as it has been closed to vehicular traffic by Whatcom County Ordinance 2004-008. The public will benefit by its vacation and abandonment.

5. Petitioners will pay all costs and expenses incurred by the County in examination, report, notice and proceedings pertaining to this petition.

6. A bond in the penal sum of $790.00, payable to Whatcom County Treasurer, accompanies this petition.

7. The application fee accompanies this petition.

WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and that an order be entered vacating and abandoning said road.

CONTACT PERSON:

Scott Harksell
Compass Point Survey Group, Inc.
360-354-8320

Scott Loomer
Signed this 12 day of December, 2014.

Iris Loomer
Signed this 12 day of December, 2014.

Marc R. Perry, Perry Pallet LLC,
Signed this ___ day of ___________, 20__.

Joseph Massett
Signed this ___ day of ___________, 20__.

Dorothy Massett
Signed this ___ day of ___________, 20__.
This portion of Delta Line Road is useless as part of the County and State road system, especially as it has been closed to vehicular traffic by Whatcom County Ordinance 2004-008. The public will benefit by its vacation and abandonment.

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Scott Harksell
Compass Point Survey Group, Inc.
360-354-8320

Scott Loomer
Signed this ___ day of __________, 20__.

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Signed this ___ day of __________, 20__.

Marc R Perry, Perry Pallet LLC
Signed this ___ day of __________, 20__.

Joseph Massett
Signed this ___ day of ___ 20__.

Dorothy Massett
Signed this ___ day of ___ 20__.
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PETITIONERS' NAMES: Property owned by petitioner (part of sec. or name of plat, see (lot), TWP, (Blk) Range):

James & Patricia Bliss:  
TPN 390112 526530;

Klaus Klix:
Delta Pacific LLC:
TPN 390101 510298;

Gerald Libolt,
LL V Investment Group, Inc.:
TPN 390206 166042;

Cirby Crisp & Gina Johnson:
TPN 390207 203083

T. Patrick & Lori Brown:
TPN 390207 119222

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

(See Exhibit C)
WHEREFORE, petitioners request the County Road Engineer to report upon this petition, that a hearing take place on this report, and an order be entered vacating and abandoning said road. (NOTE: A minimum of five signatures is required by law; see statement near the beginning of page 1).

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T. Patrick & Lori Brown:
TPN 390207 119222

A map of the road proposed to be vacated and surrounding properties, with each of the above signed petitioners properties indicated thereon, shall be attached to this petition in order for it to be accepted in the County Council Office.

(See Exhibit C)
Exhibit A
Road Vacation – Land Description

A tract of land within the southeast quarter of the southeast quarter of Section 1, Township 39 North, Range 1 East of W.M., and within the southwest quarter of the southwest quarter of Section 6, Township 39 North, Range 2 East of W.M. being more particularly described as follows:

Commencing at the Section corner common the Sections 6 and 7, Township 39 North, Range 2 East, W.M., and Section 1 and 12, Township 39 North, Range 1 East of W.M.; thence North 01°49'50" East, along the section line common to said Sections 6 and 1, a distance of 30.00 feet to a point on the North right-of-way of Grandview Road, said point being the True Point of Beginning; Thence North 89°01'52" West, along the north right-of-way line of Grandview Road, a distance of 20.00 feet to an intersection with the west right-of-way line of Delta Line Road; thence North 01°49'50" East, along the west right-of-way line of Delta Line Road a distance of 317.05 feet; to a point on the south right-of-way line of that certain right-of-way granted to the public by deed dated August 3rd, 2005 and recorded under Whatcom County Auditor’s File Number 2050802925; thence Northwesterly along a curve to the left which radius point bears North 44°24'28" West 180.00 feet, an arc distance of 32.06 feet though a central angle of 10°12'16" to a point on the section line between aforesaid Sections 6 and 1; thence continuing along said curve to the left an arc distance of 97.17 feet through a central angle of 30°55'52" to a point on the east right-of-way line of Delta Line road a depicted and dedicated on the “Grandview Light Industrial Park General and Specific Binding Site Plan” as per the map thereof recorded under Whatcom County Auditor’s File Number 920110138; Thence South 01°46'36" West a distance of 201.31 feet to the southwest corner of Lot 21 of said “Grandview Light Industrial Park”; thence South 88°37'32" West a distance of 10.02 feet; Thence South 01°49'50" West a distance of 229.97 feet to a point on the north right-of-way line of Grandview Road; thence South 88°30'04" West a distance of 20.03 feet to Point of Beginning.

Together with and/or subject to: Covenants, conditions, restrictions and easements if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.
EXHIBIT B
MAP SHOWING AREA OF ROAD VACATION PORTION OF DELTA LINE ROAD

PERRY PALLET:
TAX PARCEL 390206 015071 0000
AREA OF VACATION: 4267 S.F.

LOOMER:
TAX PARCEL 390101 518015 0000
AREA OF VACATION: 6573 S.F.

MASSETT:
TAX PARCEL 390206 015014 0000
AREA OF VACATION: 4600 S.F.

GRANDVIEW ROAD

1 6
12 7
Property Search Results > 175073 SCOTT & IRIS LOOMER for Year 2013 - 2014

Property

Account
Property ID: 175073

Legal Description: THAT PTN OF E 1/2 SE LY NELY OF BLAINE FERNDALE RD (VISTA DR-CO RD 42)-SLY OF TR GRANTED WHATCOM CO FOR R/W UNDER AF 2050802925-LESS RDS

Geographic ID: 3901015180150000
Type: Real
Tax Area: 2025-502 F7 C7
Open Space: N
Historic Property: N
Multi-Family Redevelopment: N
Township: T39N
Range: R01E

Location
Address: 2504 GRANDVIEW RD FERNDALE, WQ
Neighborhood: 2120027200
Neighborhood CD: 2120027200

Owner
Name: SCOTT & IRIS LOOMER
Mailing Address: PO BOX 2037 KAHULUI, HI 96733-2037
Owner ID: 70136
% Ownership: 100.0000000000%

Pay Tax Due
There is currently No Amount Due on this property.

Taxes and Assessment Details
Values
Map List
Taxing Jurisdiction
Improvement / Building
Property Image
Land
Roll Value History
Deed and Sales History
Payout Agreement

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Assessor Home Page  Treasurer Home Page  Full County Map  Disclaimer  Privacy Policy

Website version: 9.0.37.2400  Database last updated on: 10/31/2014 1:52 AM  © N. Harris Computer Corporation
Property Search Results > 89882 PERRY PALLET LLC for Year 2013 - 2014

Property

Account
Property ID: 89882
Legal Description: LOT 21 GRANDVIEW LIGHT INDUSTRIAL PARK GENERAL SPECIFIC BINDING SITE PLAN AS REC BOOK 2 BINDING SITE PLANS PG 11

Geographic ID: 3902060150710000
Agent Code:
Type: Real
Tax Area: 2020 - 502 F7 C6
Land Use Code: 24
Open Spaces: N
DFL: N
Historic Property: N
Remodel Property: N
Multi-Family Redevelopment: N

Township: T39N
Section: 06
Range: R02E

Location
Address: 6940 DELTA LINE RD FERNADE, WA
Mapscio:
Neighborhood: 2120027400
Map ID:
Neighborhood CD: 2120027400

Owner
Name: PERRY PALLET LLC
Owner ID: 87493
Mailing Address: 6940 DELTA LINE RD FERNADE, WA 98248-9706
% Ownership: 100.0000000000%

Pay Tax Due

Taxes and Assessment Details

Values

Map List

Taxing Jurisdiction

Improvement / Building

Property Image

Land

Roll Value History

Deed and Sales History

Payout Agreement

This website is under active development. Some functionality is not yet available and data is not guaranteed.
Assessor Home Page  Treasurer Home Page  Full County Map  Disclaimer  Privacy Policy
Property Search Results > 89880 JOSEPH & DOROTHY A MASSETT for Year 2013 - 2014

Property

Account
Property ID: 89880

Legal Description: BEAP AT SW COR-TH E ALG S SEC LI 250 FT TH N PAR TO W SEC LI 250 FT-TH W PAR TO S SEC LI 250 FT-TH S ALG SEC LI TO POB-LESS RD

Geographic ID: 3902060150140000
Type: Real
Tax Area: 2020 - 502 F7 C6
Open Space: N
Historic Property: N
Multi-Family Redevelopment: N
Township: T39N
Range: R02E

Location
Address: 2450 GRANDVIEW RD FERNDALE, WA
Neighborhood: 2120011000 SFR-AC
Neighborhood CD: 2120011000

Owner
Name: JOSEPH & DOROTHY A MASSETT
Mailing Address: 2450 GRANDVIEW RD FERNDALE, WA 98248-9325

Owner ID: 73746
% Ownership: 100.0000000000%

Pay Tax Due
Taxes and Assessment Details
Values
Map List
Taxing Jurisdiction
Improvement / Building
Property Image
Land
Roll Value History
Deed and Sales History
Payout Agreement

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Website version: 9.0.37.2400  Database last updated on: 10/31/2014 1:52 AM  © N. Harris Computer Corporatio
Property Search Results > 86803 JAMES N & PATRICIA L BLISS for Year 2013 - 2014

Property

Account
Property ID: 86803

Legal Description: NLY 187 FT AS MEAS ALG ITS ELY LI OF TR DAF-BEAP 30 FT S OF NE COR OF NE 1/4-TH W 172 FT TO ELY LI OF BLAINE FERNADE RD TH SELY ALG LI OF BLAINE FERNADE RD 626 FT-TH E 8 FT-TH N 603 FT TO POB-LESS RDS-SUBJ TO LIFE ESTATE OF JAMES N BLISS RES

Geographic ID: 3901125285300000

Type: Real

Tax Area: 2025 - 502 F7 C7

Open Space: N

Historic Property: N

Multi-Family Redevelopment: N

Township: T39N

Range: R01E

Location

Address: 6886 VISTA DR

FERNDALE, WA

Neighborhood: 2120012000 SFR-LOT

Neighborhood CD: 2120012000

Owner

Name: JAMES N & PATRICIA L BLISS

Mailing Address: PO BOX 1852

FERNDALE, WA 98248-1852

Owner ID: 19917

% Ownership: 100.000000000%

Pay Tax Due

Taxes and Assessment Details

Values

Map List

Taxing Jurisdiction

Improvement / Building

Property Image

Land

Roll Value History

Deed and Sales History

Payout Agreement

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Assessor Home Page  Treasurer Home Page  Full County Map  Disclaimer  Privacy Policy

Website version: 9.0.37.2400  Database last updated on: 9/12/2014 1:51 AM  © N. Harris Computer Corp
Property Search Results > 85472 DELTA PACIFIC LLC for Year 2013 - 2014

Property

Account
Property ID: 85472

Legal Description: LOT 24 DELTA TECH INDUSTRIAL PARK NO 1 SPECIFIC BINDING SITE PLAN AS REC AF 2040903856

Geographic ID: 3901015102980000
Agent Code:

Type: Real

Tax Area: 2025 - 502 F7 C7

Land Use Code: 34

Open Space: N

DFL: N

Historic Property: N

Remodel Property: N

Multi-Family Redevelopment: N

Township: T39N

Section: 01

Range: R01E

Location
Address: 7135 DELTA LINE RD

FERNDALE, WA
Mapsco:

Neighborhood: 2120027400

Map ID:

Neighborhood CD: 2120027400

Owner
Name: DELTA PACIFIC LLC

Owner ID: 34932

Mailing Address: 7135 DELTA LINE RD

FERNDALE, WA 98248-7704

% Ownership: 100.0000000000%

Exemptions:

Pay Tax Due
Taxes and Assessment Details
Values
Map List
Taxing Jurisdiction
Improvement / Building
Property Image
Land
Roll Value History
Deed and Sales History
Payout Agreement

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Website version: 9.0.37.2400  Database last updated on: 9/12/2014 1:51 AM  © N. Harris Computer Corpora
Whatcom County Assessor & Treasurer

Property Search Results > 90052 LLV INVESTMENT GROUP INC for Year 2013 - 2014

Property

Account
Property ID: 90052
Legal Description: LOTS 12-13 GRANDVIEW LIGHT INDUSTRIAL PARK SPECIFIC BINDING SITE PLAN NO 2 AS REC BOOK 2 BINDING SITE PLANS PG 62-SUBJ TO COVENANT TO BIND PROPERTIES AF 2051203647

Geographic ID: 3902061660420000
Agent Code:
Type: Real
Tax Area: 2020 - 502 F7 C6
Land Use Code: 66
Open Space: N
DFL: N
Historic Property: N
Remodel Property: N
Multi-Family Redevelopment: N
Section: 06
Township: T39N
Range: R02E

Location
Address: 2380 GRANDVIEW RD FERNDALE, WA
Mapsco:
Neighborhood: 2120027200
Map ID:
Neighborhood CD: 2120027200

Owner
Name: LLV INVESTMENT GROUP INC
Owner ID: 69678
Mailing Address: 2380 GRANDVIEW RD FERNDALE, WA 98248-9325
% Ownership: 100.0000000000%
Exemptions:

Pay Tax Due
There is currently No Amount Due on this property.

Taxes and Assessment Details

Values
Map List
Taxing Jurisdiction
Improvement / Building
Property Image
Land
Roll Value History
Deed and Sales History
Payout Agreement

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Website version: 9.0.37.2400  Database last updated on: 10/29/2014 1:51 AM  © N. Harris Computer Corporation

http://property.whatcomcounty.us/propertyaccess/Property.aspx?cid=0&year=2013&prop_id=90052

273
Property Search Results > 90305 CIRBY R CRISP & GINA JOHNSON for Year 2013 - 2014

Property

Account
Property ID: 90305

Legal Description: LOT C CRISP II CLUSTER SHORT PLAT AS REC BOOK 32 SHORT PLATS PG 21

Geographic ID: 3902072030830000
Type: Real
Tax Area: 2020 - 502 F7 C6
Open Space: N
Historic Property: N
Multi-Family Redevelopment: N
Township: T39N
Range: R02E

Location
Address: 6544 VISTA DR
FERNALE, WA
Neighborhood: 2120011000 SFR-AC
Neighborhood CD: 2120011000

Owner
Name: CIRBY R CRISP & GINA JOHNSON
Mailing Address: 6544 VISTA DR
FERNALE, WA 98248-8715

Owner ID: 32196
% Ownership: 100.0000000000%

Pay Tax Due
There is currently No Amount Due on this property.

Taxes and Assessment Details

Values

Map List

Taxing Jurisdiction

Improvement / Building

Property Image

Land

Roll Value History

Deed and Sales History

Payout Agreement

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Website version: 9.0.37.2400  Database last updated on: 10/29/2014 1:51 AM  © N. Harris Computer Corporation
Property Search Results > 90270 T PATRICK & LORI L BROWN for Year 2013 - 2014

Property

Account
Property ID: 90270

Legal Description: LOT 2 VISTA MAPLES SHORT PLAT AS REC AF 1971102912

Geographic ID: 3902071192220000

Agent Code:

Type: Real

Land Use Code 11

Tax Area: 2020 - 502 F7 C6

DFL N

Open Space: N

Remodel Property: N

Historic Property: N

Multi-Family Redevelopment: N

Township: T39N

Section: 07

Range: R02E

Location

Address: 2400 HALF MOON WAY

Mapscio:

FERNDALE, WA

Map ID:

2120011000 SFR-AC

2120011000

Owner

Name: T PATRICK & LORI L BROWN

Owner ID: 23469

Mailing Address: 2400 HALF MOON WAY

% Ownership: 100.0000000000%

FERNDALE, WA 98248-5409

Exemptions:

Pay Tax Due

There is currently No Amount Due on this property.

Taxes and Assessment Details

Values

Map List

Taxing Jurisdiction

Improvement / Building

Property Image

Land

Roll Value History

Deed and Sales History

Payout Agreement

This website is under active development. Some functionality is not yet available and data is not guaranteed.

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Website version: 9.0.37.2400

Database last updated on: 10/29/2014 1:51 AM

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http://property.whatcomcounty.us/propertyaccess/Property.aspx?cid=0&year=2013&prop_id=90270

275
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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<tr>
<th>Originator:</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
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<td>Division Head:</td>
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<td>2-24-04</td>
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<td>Dept. Head:</td>
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<td>Prosecutor</td>
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<tr>
<td>Executives:</td>
<td></td>
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</tr>
</tbody>
</table>

SUBJECT:
Closure of a portion of Delta Line Road north of Grandview Road and south of the proposed new road alignment.

ATTACHMENTS:
1. Memo to County Executive and Council
2. Letter from Jones Engineering on behalf of Delta Pacific, LLC
3. Letter from Washington State Department of Transportation
4. Map
5. Proposed Ordinance

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

Should Clerk schedule a hearing? (X) Yes ( ) NO
Requested Date: 2/24/04

SUMMARY STATEMENT:
Whatcom County has been requested by Jones Engineering on behalf of Delta Pacific, LLC and Washington State Department of Transportation to eliminate the intersection of Delta Line Road at Grandview Road. The construction of a new Delta Line Road alignment access onto Vista Drive 400 feet north of Grandview would allow for the closure of Delta Line Road from the new alignment south to Grandview Road.

COUNCIL ACTION TAKEN:
1 2004-97  2/10/2004: Introduced
   2/24/2004: Adopted 7-0, Ord. #2004-008

Distribution Request
Indicate those who should receive a copy after Council action. List specific names to the right.

AS Facilities Management
AS Finance
AS Human Resources
AS Info Services
Assessor
Auditor
Cooperative Extension
District Court
Executive
Health
Hearing Examiner
Jail
Juvenile
Parks
Planning
Prosecutor
Public Works
Sheriff
Superior Court
Treasurer
Other

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number (this item): ORD. # 2004-008
MEMO TO: The Honorable Pete Kremen, County Executive, and Honorable Members of the Whatcom County Council

FROM: Joseph P. Rutan, Asst. Director/County Road Engineer
Jeffrey M. Monsen, Public Works Director

DATE: January 27, 2003

SUBJECT: Closure of Delta Line Road North of Grandview and South of the Proposed Delta Line Road Re-alignment

Requested Action:

The Public Works Division of Engineering requests that the proposed ordinance for a partial closure of Delta Line Road be forwarded to the Council for consideration and adoption, see attached map.

Background and Purpose:

Mr. Klaus Klix has proposed a light industrial park off Delta Line road. The current access is onto Grandview Road. The existing intersection of Grandview Road and Delta Line Road does not meet the exiting sight distance requirements within both Washington State Department of Transportation and Whatcom County Public Works standards. The improvements required by both the County and the State would not sufficiently improve the sight distance and related safety concerns at the intersection because of it's very close proximity to the intersection of Grandview Road and Vista Drive. The alternative is to construct a re-alignment of Delta Line Road so it intersects with Vista Drive about 400 feet north of the Grandview Road and Vista Drive intersection. This alternative route would satisfy the state, county, and the developer.

Information:

Sixteen feet of pavement would remain around the Grange building at the corner of Grandview Road and the existing Delta Line Road. The remaining pavement would be removed. No other property accesses would be affected. The new alignment of Delta Line Road, as shown on the attached map, would be constructed to the necessary width for full development of the industrial park as well as future development.

Enc.
ORDINANCE NO. 2004-008
ORDERING THE CLOSURE OF DELTA LINE ROAD,
FROM SR548 TO 0.13 MILES NORTH OF SR548

WHEREAS, the Whatcom County Council has been requested by Ferrotech
Incorporated to close a portion of Delta Line Road from SR 548 to 0.13 miles north of SR548,
and

WHEREAS, the intersection of Delta Line Road and SR548 lacks the minimum sight
distance and minimal turning radius because of the close proximity to the intersection of Vista
Drive and SR548, and

WHEREAS, Washington State Department of Transportation would like the intersection
of Delta Line Road and SR 548 eliminated because of the above safety hazards, and

WHEREAS, Ferrotech Incorporated has constructed a roadway within dedicated County
right-of-way connecting the northern portion of Delta Line Road to Vista Drive, and

WHEREAS, The County Council held a public hearing on the proposed closure on
Feb. 24th, 2004, and is authorized to close the roads according to provisions of
RCW 36.32.120.

NOW, THEREFORE, BE IT ORDEAED by the Whatcom County Council that the Public
Works Department of Whatcom County is hereby directed, subject to further consideration for
re-establishing access for adjoining property owners and the public, to close Delta Line Road
from SR548 to 0.13 miles north of SR548 to vehicular traffic.

BE IT FURTHER ORDEAED that as a condition of closure, Ferrotech Incorporated will
install proper signs and barriers approved by Whatcom County Public Works at the approved
location allowing pedestrian and no-motorized vehicle access along said portions of closed
roads.

ADOPTED this 24 day of February, 2004.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Don McShane, Council Chair

Pete Kremen, County Executive

Date: 3/5/04

Dana Brown-Davis, Council Clerk

Daniel L. Anderson

Civil Deputy Prosecutor

Page 1 of 1
Whatcom County Council

Delivered by fax to
Whatcom County Division of Engineering
Fax No. 676-6558

Dear Honorable Council Members,

I am writing this letter on behalf of our client Delta Pacific, LLC, in support of the proposed closing of that section of Delta Line Road from its intersection with Grandview Road to a point approximately 385 feet north of that intersection. This closure will coincide with the construction of a connector from Delta Line Road to Vista Drive.

Delta Pacific is in the process of building an industrial park that accesses Delta Line Road. Delta Line Road dead ends against the Burlington Northern Santa Fe railroad right of way, and all traffic from the proposed industrial park area currently must use the above mentioned intersection with Grandview. The Grandview-Delta Line intersection is approximately 200 feet east of the four-way stop at the intersection of Grandview and Vista Drive.

The southerly 600 feet of Delta Line Road has a pavement width of 20 feet. One of the conditions of the preliminary binding site plan is to widen this narrow portion of the road to 24 feet of pavement with 3-foot shoulders. During the review process of the these proposed improvements it became apparent that the close proximity of the Delta Line and Vista Drive intersections with Grandview would create an unsafe traffic situation especially with increased truck traffic using Delta Line Road.

Klaus Klix, one of the principals of Delta Pacific, LLC, approached Robert Brandt about the possibility acquiring property for constructing the proposed bypass to Vista Drive. He agreed. The proposal change to the alignment of Delta Line Road is the result of multi-party discussions involving the Delta Pacific group, the Whatcom County Engineering Division, Whatcom Land Services, the State Department of Transportation, and Jones Engineers, to arrive at a safe and economical means to access Delta Line Road.

The closure of the portion of Delta Line Road is an important part of the proposed change. With the closure, the paving will be removed from the road so that the Delta Line – Grandview intersection will be eliminated entirely, creating a safer condition for Whatcom County motorists.

On behalf of our client, Delta Pacific, LLC, and Jones Engineers, Inc., I urge you to approve the proposed closure of Delta Line Road.

Thank you for your time and consideration of this matter.

Sincerely,

[Signature]

David New
Jones Engineers, Inc.
MAP OF
PROPOSED NEW ROAD ALIGNMENT AND
CLOSURE FOR DELTA LINE ROAD
January 27, 2004

Mr. Joseph P. Rutan, P.E.
Assistant Director
Whatcom County Public Works Department
5280 Northwest Drive, Suite C
Bellingham, WA 98226-9098

SUBJECT: SR-548 MP 0.93 Vic. CS 3750
Delta Tech Industrial Park
Vista Drive Connector/Delta Line Road Closure

Dear Mr. Rutan:

This letter serves to convey WSDOT’s support for the closure of Delta Line road, at its intersection with SR 542/Grandview Road, and the proposed alternative of constructing a new access to the effected property owners from Vista Drive.

As stated in previous correspondence regarding this issue, the intersection sight distance from the Delta Line Road stop bar onto SR 548 is substandard at 235 feet to the east and 185 feet to the west. The standard for intersection sight distance is 730 feet as per the WSDOT Design Manual, Figure 910-6. The standard (design) stopping sight distance is 460 feet as per WSDOT Design Manual, Figure 650-2.

Based on this information, and the intersections close proximity to the intersection of SR 548/Grandview Road and Vista Drive, WSDOT has serious reservations as to safety with the continued use of Delta Line Road.

WSDOT would like to thank you, and Ms. Mary White of your staff, for your continued efforts to identify and implement a long-term solution to improve highway safety in this location.

If you have any questions, please contact Mr. Roland Storme of our Development Services section at (360) 757-5961.

Sincerely,

Lee Conrad
Area Operations Manager
Northwest Region/Mount Baker Area
To Whom It May Concern:

In response to AB2015-115A we would like it to be clear that CNGC operates a 4" steel gas pipeline using this ROW. With the vacation of the ROW, as stated in the County verbiage we will need to be able to have access to operate and maintain the pipeline. A map is enclosed showing roughly where the pipeline is located.

Thanks

Brandon Haugness
Engineer Associate
Cascade Natural Gas Corporation
1910 Racine St
Bellingham, WA 98229
360-788-2362

re: Vacation of a portion of Delta Line Rd.
### TITLE OF DOCUMENT:
Ordinance - amend Charter to require supermajority to propose Charter amendments

### ATTACHMENTS:

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>Yes</th>
<th>No</th>
<th>Should Clerk schedule a hearing?</th>
<th>Yes</th>
<th>No</th>
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<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
<td>No</td>
<td>Requested Date:</td>
<td>7/21/2015</td>
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</table>

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Ordinance proposing an amendment to the Whatcom County Charter to require a supermajority of either the entire Charter Review Commission or the County Council to propose Charter amendments

### COMMITTEE ACTION:

### COUNCIL ACTION:

7/7/2015: Introduced 7-0

---

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
ORDINANCE NO._______

PROPOSING AN AMENDMENT TO THE WHATCOM COUNTY CHARTER TO REQUIRE A SUPERMAJORITY OF EITHER THE ENTIRE CHARTER REVIEW COMMISSION OR THE COUNTY COUNCIL TO PROPOSE CHARTER AMENDMENTS

WHEREAS, the Whatcom County Charter requires the Whatcom County Council to have five affirmative votes in order to propose a Charter amendment to the voters; and

WHEREAS, the Whatcom County Charter Review Commission has been granted the authority in the Whatcom County Charter to propose Charter amendments to the voters by filing their proposed amendments with the County Council and having the County Council submit amendments to the voters; and

WHEREAS, the Whatcom County Council and the Whatcom Charter Review Commission should be held to the same standards in public participation and in submitting Charter amendments to the voters; and

WHEREAS, achieving a supermajority agreement on proposing Charter amendments requires a greater effort to set aside partisan agendas and achieve bipartisan consensus than a simple majority vote; and

WHEREAS, reaching a supermajority agreement means more diverse opinions are heard, included, and considered; and

WHEREAS, Charter Review Commission amendments have been proposed with limited or no opportunity for public comment and without broad support, achieving only a simple majority vote; and

WHEREAS, elected officials should work together for the good of all the people of Whatcom County.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that the County Auditor place on the November 2015 general election ballot a Charter amendment, as outlined in Exhibit A to this ordinance, requiring a supermajority vote of two-thirds of the entire membership of either the Charter Review Commission or the Whatcom County Council to submit or propose a charter amendment to the voters; and
BE IT FURTHER ORDAINED that both the Charter Review Commission and the Whatcom County Council shall be held to the same high percentage of votes required in order to propose Charter amendments to the voters and neither body shall be required to achieve a higher or lower threshold than the other for proposing any Charter amendment to the voters.

ADOPTED this ___ day of ________, 2015.

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

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

__________________________
Jack Louws, County Executive

(  ) Approved  (  ) Denied

Date Signed: ______________________
Whatcom County Council Charter Amendment #

As adopted by the Whatcom County Council: Shall all Charter amendments proposed by either the Charter Review Commission or the County Council be required to receive a supermajority vote of the entire membership of the Commission or Council in order to be placed on the ballot for voters to consider, with no requirement for a higher number?

Ballot Title:

REDUCING PARTISAN AMENDMENTS THROUGH SUPERMAJORITY AGREEMENT

The Whatcom County Council has proposed an amendment to the Whatcom County Charter concerning equal standards to submit Charter amendments. This measure would amend 8.21 and 8.23 of the Whatcom County Charter to require any amendment proposed by the County Council or the Charter Review Commission to have a supermajority vote of the of the Commission or Council, with no requirement for a higher number. Should this proposal be:

APPROVED______
REJECTED______

Amended Charter Language

Section 8.21 Amendments by the Charter Review Commission.
The Commission may propose amendments to the Charter by filing such proposed amendments with the County Council who shall submit the amendment to the voters at the next November general election at least ninety (90) days after the filing and registration of the amendments. A supermajority (ten of fifteen) of affirmative votes of the entire membership shall be required to file a proposed amendment with the County Council and no amendment shall require a higher number.

Section 8.23 Amendments by the County Council.
The County Council may propose amendments to the Charter by enacting an ordinance to submit a proposed amendment to the voters at the next November general election occurring at least ninety (90) days after enactment. A supermajority (five of seven) of affirmative votes of the entire membership shall be required to enact such an ordinance and no amendment shall require a higher number. An ordinance proposing an amendment to the Charter shall not be subject to the veto power of the County Executive.

The County Council by unanimous vote of the entire Council may effect amendments to the language of the Charter where the passage of time has rendered language moot or obsolete. Such changes shall be made by ordinance, and have a public hearing. (Amended by referendum 1995)
### TITLE OF DOCUMENT:
Receipt of Charter Review Commission amendments and forward to voters

### ATTACHMENTS:
Memo from Charter Review Commission

### SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Whatcom County Home Rule Charter 8.21 states "The Commission may propose amendments to the Charter by filing such proposed amendments with the County Council who shall submit the amendment to the voters at the next November general election at least ninety (90) days after the filing and registration of the amendments."

### 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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</thead>
</table>

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).
WHATCOM COUNTY CHARTER REVIEW COMMISSION

July 6, 2015

TO: Whatcom County Council

FROM: Whatcom County Charter Review Commission

SUBJ: 2015 Charter Review Commission Recommended Amendments to Voters

The 2015 Whatcom County Charter Review Commission recommends eight amendments to the voters for the November 2005 general election. Please forward these amendments to the Whatcom County Auditor, per Charter Section 8.20.

Proposition No. 1: ELECTING COUNCIL MEMBERS
   The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter concerning the method of electing County Council members. This measure would amend Charter Section 2.13 to provide for election of County Council members by voters only from within the council district from which the candidate was nominated, except for the at-large position which would continue to be selected by voters from the entire county. Should this proposal be APPROVED or REJECTED?

Proposition No. 2: LIMITING POWER OF COUNCIL TO AMEND CHARTER
   The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter limiting the power of the Council to propose Charter amendments. This measure would amend Charter Section 8.20 to prohibit the County Council, without a 7-0 vote, from proposing Charter amendments to previous Charter amendments that have been approved by a 2/3 majority of voters. Should this proposal be APPROVED or REJECTED?

Proposition No. 3: LIMITING POWER OF COUNCIL TO AMEND CHARTER'S ELECTION PROVISIONS
   The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter limiting the power of the Council to propose Charter amendments. This measure would amend Charter Section 8.23 to prohibit the County Council, without a 7-0 vote, from proposing any Charter amendment to Charter Sections 2.12 or 2.13, which pertain to the method of nominating and electing County Council members. Should this proposal be APPROVED or REJECTED?

Proposition No. 4: INCREASING WORD LIMIT FOR BALLOT QUESTIONS
   The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter to provide greater consistency with state law regarding the wording of initiatives and referenda. This measure would amend Charter Sections 5.40 and 5.60 pertaining to initiatives and referenda and increase the word limit for ballot questions from 20 to 40 words. Should this proposal be APPROVED or REJECTED?

Proposition No. 5: LOWERING THRESHOLD FOR INITIATIVE AND REFERENDUM SIGNATURES
   The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter lowering the number of signatures required to place initiatives and referendums on the ballot. This measure would amend Sections 5.40 and 5.60 to lower the threshold of signatures required to place an initiative or referendum on the ballot from 15% of the number of votes cast in the last general election to 8% of the number of votes cast in the last regular gubernatorial election. Should this proposal be APPROVED or REJECTED?

DISTRICT 1: Todd Donovan, Eli Mackiewicz, Barbara Ryan, Thomas Stuen, Alison Walker; DISTRICT 2: Ken Bell, Chet Dow, Ben Elenbaas, Joe Elenbaas, Cliff Langley; DISTRICT 3: Yvonne Goldsmith, Wes Kentch, Richard May, Jon Mutchler, Eileen Sobjack

291
Proposition No. 6: LOWERING THE NUMBER OF SIGNATURES REQUIRED FOR CITIZEN INITIATIVES TO AMEND CHARTER

The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter reducing signatures required to place citizen-proposed Charter amendments on the ballot. This measure would amend Charter Section 8.22 to lower the number of signatures required for placement upon the ballot of proposed Whatcom County Charter changes by citizen initiative from 20% to 15% of the number of votes cast in the County in the last gubernatorial election. Should this proposal be APPROVED or REJECTED?

Proposition No. 7: TERM LIMITS FOR COUNTY EXECUTIVE AND COUNCIL MEMBERS

The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter to place term limits upon the County Executive and County Council members. This measure would amend Charter Sections 2.14 and 3.21 to apply a term limit of no more than three consecutive full terms to the County Executive and County Council members, to be applied prospectively only, beginning with the 2017 and 2019 elections. Should this proposal be APPROVED or REJECTED?

Proposition No. 8: ALTERING COMPOSITION OF DISTRICTING COMMISSION

The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter to alter the requirements for composition of the Districting Commission. This measure would amend Charter Section 4.41 to include representation on the districting committee from each political party with a candidate who receives at least 15% of the vote cast in the County in the last gubernatorial primary or presidential election, with a second representative on the committee assigned to each party of which a candidate for those same elections received at least 33% of the vote. Should this proposal be APPROVED or REJECTED?

C: Debbie Adelstein, Whatcom County Auditor
TITLE OF DOCUMENT:
Appoint Voter Pamphlet Pro/Con Statement Committees for Charter Amendments

ATTACHMENTS:
Memo

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.)

For each ballot measure on the November ballot, the Revised Code of Washington (RCW) requires the legislative authority to appoint two- or three-member committees to write statements for the local voter’s pamphlet. Each committee will write the statement and rebuttal advocating for the measure (the pro committee) or against the measure (the con committee).

The Whatcom County Charter Review Commission has proposed eight Charter amendments for the 2015 November general election. Attached is a list of citizens who have volunteered for the pro and con committees for each Charter Review Commission amendment as of July 15th. If necessary, council staff will provide an updated list of volunteers before the Council meeting.

Action Required: The Council is asked to appoint the committees.

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.
July 13, 2015

TO: Whatcom County Council
FROM: Jill Nixon, Administrative Clerk
SUBJ: Voter’s Pamphlet Charter Amendment Pro/Con Statement Committee Appointments

For each ballot measure on the November ballot, the Revised Code of Washington (RCW) requires the legislative authority to appoint two- or three-member committees to write statements for the local voter’s pamphlet. Each committee will write the statement and rebuttal advocating for the measure (the pro committee) or against the measure (the con committee).

The Whatcom County Charter Review Commission has proposed eight Charter amendments for the 2015 November general election. Attached is a list of citizens who have volunteered for the pro and con committees for each Charter Review Commission amendment as of July 14. If others have volunteered, I will provide the Council an updated list before the Council meeting.

Action Required: The Council is asked to appoint the committees.

RCW 29.32.280
For each measure from a unit of local government that is included in a local voters’ pamphlet, the legislative authority of that jurisdiction shall, not later than forty-five days before the publication of the pamphlet, formally appoint a committee to prepare arguments advocating voters’ approval of the measure and shall formally appoint a committee to prepare arguments advocating voters’ rejection of the measure. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection. Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons. If the legislative authority of a unit of local government fails to make such appointments by the prescribed deadline, the county auditor shall whenever possible make the appointments.
Proposition 1: ELECTING COUNCIL MEMBERS
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter concerning the method of electing County Council members. This measure would amend Charter Section 2.13 to provide for election of County Council members by voters only from within the council district from which the candidate was nominated, except for the at-large position which would continue to be selected by voters from the entire county. Should this proposal be:

PRO: Joe Elenbaas, Eileen Sobjack, Delaine Clizbe  
CON: Richard May, Barbara Ryan, Alie Walker

Proposition 2: LIMITING POWER OF COUNCIL TO AMEND CHARTER
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter limiting the power of the Council to propose Charter amendments. This measure would amend Charter Section 8.20 to prohibit the County Council from proposing Charter amendments to previous Charter amendments that have been approved by a 2/3 majority of voters.

PRO: Ben Elenbaas, Delaine Clizbe  
CON: Richard May and Alie Walker

Proposition 3: LIMITING POWER OF COUNCIL TO AMEND CHARTER’S ELECTION PROVISIONS
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter limiting the power of the Council to propose Charter amendments. This measure would amend Charter Section 8.23 to prohibit the County Council from proposing any Charter amendment to Charter Sections 2.12 or 2.13, which pertain to the method of nominating and electing County Council members.

PRO: Chet Dow, Delaine Clizbe  
CON: Alie Walker, Eli Mackiewicz, Tom Stuen

Proposition 4: INCREASING WORD LIMIT FOR BALLOT QUESTIONS
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter increasing the word limit for ballot questions. This measure would amend Charter Sections 5.40 and 5.60 pertaining to initiatives and referendums to increase the limit from 20 words to 40 words for the concise ballot question posed to the voters.

PRO: Joe Elenbaas, Jon Mutchler, and Todd Donovan
CON:

Proposition 5: LOWERING THRESHOLD FOR INITIATIVE AND REFERENDUM SIGNATURES
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter lowering the number of signatures required to place initiatives and referendums on the ballot. This measure would amend Sections 5.40 and 5.60 to lower the threshold of signatures required to place an initiative or referendum on the ballot from 15% of the number of votes cast in the last general election to 8% of the number of votes cast in the last regular gubernatorial election.

PRO: Todd Donovan, Jon Mutchler
CON: Barbara Ryan
Proposition 6: LOWERING THE NUMBER OF SIGNATURES REQUIRED FOR CITIZEN INITIATIVES TO AMEND CHARTER
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter reducing signatures required to place citizen-proposed Charter amendments on the ballot. This measure would amend Charter Section 8.22 to lower the number of signatures required for placement upon the ballot of proposed Whatcom County Charter changes by citizen initiative from 20% to 15% of the number of votes cast in the County in the last gubernatorial election.

**PRO:** Todd Donovan, Jon Mutchler
**CON:**

Proposition 7: TERM LIMITS FOR COUNTY EXECUTIVE AND COUNCIL MEMBERS
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter to place term limits upon the County Executive and County Council members. This measure would amend Charter Sections 2.14 and 3.21 to apply a term limit of no more than three consecutive full terms to the County Executive and County Council members, to be applied prospectively only, beginning with the 2017 and 2019 elections.

**PRO:** Ken Bell, Eli Mackiewicz
**CON:** Tom Stuen

Proposition 8: ALTERING COMPOSITION OF DISTRICTING COMMISSION
The Whatcom County Charter Review Commission has proposed an amendment to the Whatcom County Charter to alter the requirements for composition of the Districting Commission. This measure would amend Charter Section 4.41 to include representation on the districting committee from each political party with a candidate who receives at least 15% of the vote cast in the County in the last gubernatorial primary or presidential election, with a second representative on the committee assigned to each party of which a candidate for those same elections received at least 33% of the vote.

**PRO:** Eli Mackiewicz and Todd Donovan
**CON:**
WHATCOM COUNTY COUNCIL AGENDA BILL  NO. 2015 – 236

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**TITLE OF DOCUMENT:**
Appointment of Pro/Con Committee members for Council proposed Charter Amendments

**ATTACHMENTS:**

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<th>SEPA review required?</th>
<th>( ) Yes ( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
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<td>SEPA review completed?</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.)

For each ballot measure on the November ballot, the Revised Code of Washington (RCW) requires the legislative authority to appoint two- or three-member committees to write statements for the local voter's pamphlet. The "pro committee" will write the statement advocating for a measure and the "con committee" will write the rebuttal statement advocating against a measure. Committees must be appointed by August 4, 2015.

The Council is asked to appoint the committees.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

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<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 Council Charter Amendment #1

As adopted by the Whatcom County Council: Shall the Charter be amended to create five equal districts that preserve communities of interest and are as compact as possible? There shall be one council position in each of the five districts plus two at-large who shall be nominated without regard to district.

Ballot Title:

Proposition No. 1
ELECTING COUNCIL MEMBERS
The Whatcom County Council has proposed an amendment to the Whatcom County Charter concerning the method of electing County Council members. This measure would amend Charter Section 2.11 and 2.12 to create five equal districts. There shall be one council position in each of the five districts plus two at-large who shall be nominated without regard to district. Should this proposal be:

APPROVED
REJECTED

Amended Charter Language:

Section 2.11 Five Three Districts.

The County Council shall consist of seven (7) members, selected as follows: For purpose of nomination of members of the Council, the county shall divide into five three districts so that each district shall comprise as nearly as possible one-fifth third of the population of the county.

Section 2.12 Nominations.

(a) Nominees by district.

There shall be one two Council positions in each of the five three districts, designated position (A) and position (B), respectively. At the primary election, the qualified electors of each district shall select two (2) candidates for each position to be filled from their district.

(b) Nominee at large.

There shall be one two Council positions designated councilmember at-large, which shall be nominated in different years without regard to district, designated position (A) and position (B), respectively. The two candidates receiving the largest number of votes county-wide at the primary election shall be certified as candidates for the position of councilmember at-large.

Transition Language:

A Districting Committee shall be appointed by January 31 of 2016, as per Sections 4.40, 4.41, and 4.42 of the County Charter. The Committee shall draw a districting plan for five Council Districts. The approximate geographic areas covered by each district are anticipated to be:

District 1 – Central and South Bellingham
District 2 – North Bellingham
District 3 – Deming, Kendall, Acme, Sudden Valley, Lake Whatcom, Lake Samish and Chuckanut
District 4 – Lynden, Sumas, Everson and surrounding farmland
District 5 – Lummi Reservation, Lummi Island, Ferndale, Birch Bay, Blaine and Point Roberts.

Council positions 1A, 2A, 3A and the At-large Position shall become Council positions District 1, District 2, District 3 and At-large Position A, respectively. These positions will be elected commencing in 2017. Council position 1B, 2B and 3B shall become At-large Position B, District 4 and District 5, respectively. These positions shall be elected commencing in 2019.
ON JULY 21, 2015, THE WHATCOM COUNTY COUNCIL WILL CONSIDER ADOPTING AN ORDINANCE THAT WOULD FORWARD THE PROPOSAL BELOW TO THE VOTERS OF WHATCOM COUNTY AT THE NOVEMBER GENERAL ELECTION. STATE LAW MANDATES THAT THE COUNCIL APPOINT A "COMMITTEE FOR" AND A "COMMITTEE AGAINST" THIS PROPOSED MEASURE TO PREPARE STATEMENTS FOR THE LOCAL VOTER'S PAMPHLET. COMMITTEES MUST BE APPOINTED BY AUGUST 4.

Whatcom County Council Charter Amendment #2

As adopted by the Whatcom County Council: Shall all Charter amendments proposed by either the Charter Review Commission or the County Council be required to receive a supermajority vote of the entire membership of the Commission or Council in order to be placed on the ballot for voters to consider, with no requirement for a higher number?

Ballot Title:

Proposition No.
REDUCING PARTISAN AMENDMENTS THROUGH SUPERMAJORITY AGREEMENT
The Whatcom County Council has proposed an amendment to the Whatcom County Charter concerning equal standards to submit Charter amendments. This measure would amend 8.21 and 8.23 of the Whatcom County Charter to require any amendment proposed by the County Council or the Charter Review Commission to have a supermajority vote of the of the Commission or Council, with no requirement for a higher number. Should this proposal be:

APPROVED  
REJECTED

Amended Charter Language

Section 8.21 Amendments by the Charter Review Commission.
The Commission may propose amendments to the Charter by filing such proposed amendments with the County Council who shall submit the amendment to the voters at the next November general election at least ninety (90) days after the filing and registration of the amendments. A supermajority (ten of fifteen) of affirmative votes of the entire membership shall be required to file a proposed amendment with the County Council and no amendment shall require a higher number.

Section 8.23 Amendments by the County Council.
The County Council may propose amendments to the Charter by enacting an ordinance to submit a proposed amendment to the voters at the next November general election occurring at least ninety (90) days after enactment. A supermajority (five of seven) of affirmative votes of the entire membership shall be required to enact such an ordinance and no amendment shall require a higher number. An ordinance proposing an amendment to the Charter shall not be subject to the veto power of the County Executive.

The County Council by unanimous vote of the entire Council may effect amendments to the language of the Charter where the passage of time has rendered language moot or obsolete. Such changes shall be made by ordinance, and have a public hearing. (Amended by referendum 1995)
Title of Document:
Appointment to Incarceration Prevention and Reduction Task Force

 Attachments:
vacancy notice and applications

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.)

Appointments are for 2-year and 4-year terms.

Committee Action:

Council Action:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
WHATCOM COUNTY COUNCIL

INCARCERATION PREVENTION AND REDUCTION TASK FORCE: 11 Vacancies with 2-year or 4-year terms

Purpose: The Incarceration Prevention and Reduction Task Force will Continually review Whatcom County’s criminal justice and behavioral health programs and make specific recommendations to safely and effectively reduce incarceration of individual struggling with mental illness and chemical dependency, and minimize jail utilization by pretrial defendants who can safely be released.

Function: The Task Force will consider national best practices and report on and make recommendations to the County Council, Executive, and other appropriate officials regarding: the construction and operation of a new or expanded multi-purpose crisis triage facility to assist with jail and hospital diversion of individuals struggling with mental illness and chemical dependency; Development of new, or enhancement of existing, programs designed along a continuum that effectively reduces incarceration of individuals struggling with mental illness and chemical dependency; effective pretrial service programs that assure that defendants appear for court proceedings while minimizing jail utilization by defendants who can safely be released; necessary and effective programs and services that can assist offenders with successful transition from both the jail and triage center back to the community to reduce rates of recidivism and improve public health and safety; the ongoing staff support and funding for the Task Force, and; review of the diversion programs of the County and all cities, and establishment of benchmarks to measure the effectiveness of the programs in reducing incarceration. See Whatcom County Ordinance 2015-025 for full details.

Membership requirements: Must be a representative of one of the following:

Whatcom Alliance for Healthcare Access (WAHA):

Peace Health St. Joseph:

A Federally Qualified Health Center (FQHC)/Community Health Center (Interfaith and SeaMar are the only two FQHCs in Whatcom County):

Emergency medical services:

Representatives of a Community action agency, mental health provider, or substance abuse treatment provider (3): Dave Finet, Opportunity Council; Byron Manerling, Brigid Collins Family Support Center;

Consumer or family member of behavioral health services (2): Jack Hovenier*, Susan Gribbin*

Concerned citizen (2): Kirsten Barron, Jack Hovenier*, Everett Barton, Susan Gribbin*, Jill Bernstein, Linda Santini

*applicants who have applied under more than one category
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: David W. Finit  Date: 7/13/15
Street Address: 1111 Cornwall Ave
City: Bellingham WA  Zip Code: 98225
Mailing Address (if different from street address): 
Day Telephone: 360-734-5121  Evennig Telephone: 360-968-4941  Cell Phone: 360-739-7953
E-mail address: dave_finit@oppco.org

1. Name of board or committee—please see reverse: Incarceration Prevention and Reduction Task Force
   Please refer to vacancy list.

2. You must specify which position you are applying for.
   Community Action Representative

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: 2009-2015 Whatcom Housing Advisory Board

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: Opportunity Council

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education:
   Executive Director of Opportunity Council, Involved in anti-poverty programs for the past 29 years. Experience working with people involved with the criminal justice system. Understand the challenges of people experiencing poverty.

10. Please describe why you're interested in serving on this board or commission:
    I believe I can bring the perspective of people in and struggling with the criminal justice system. I have been doing research about alternatives to incarceration and implementing diversion programs.

References (please include daytime telephone number):
   Momie Lackie OC Board Chair
   676-6670
   Stan Snapp OC Board past president 305-0607

Signature of applicant:

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Byron Manecling
Street Address: 1452 Grant St
City: Bellingham
Mailing Address (If different from street address): 1231 N. Garden St
Day Telephone: 360.734.4616 x 12
Email address: bmaneling@brigidcollins.org

1. Name of board or committee—please see reverse:
   INCARCERATION PREVENTION & REDUCTION TASK FORCE
   WHATSA COMMUNITY ACTION AGENCY BY TREATMENT

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.)

4. Which Council district do you live in?

5. Are you a US citizen?

6. Are you registered to vote in Whatcom County?

7. Have you ever been a member of this Board/Commission?

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?

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   SEE ATTACHED

10. Please describe why you're interested in serving on this board or commission:

   WORK AND PERSONAL INTEREST WILL BRING A CHILDREN AND FAMILY PERSPECTIVE; VICTIM RIGHTS PERSPECTIVE; INMATES AS PARENTS PERSPECTIVE

References (please include daytime telephone number):
ANDY STAMPLEY 734-4616 x 15
PETE WOLVIN 360.319.4636

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.
BYRON G. MANERING
1452 Grant Street Bellingham, WA 98225
(360) 305-7035 bmanering@brigidcollins.org

NON-PROFIT EXECUTIVE DIRECTOR

Builder of strong and effective leadership teams focused on generating positive outcomes through innovation, evaluation and celebration. Develops a culture of success through a commitment to quality assurance, personal responsibility, and acknowledgement. Brings vision and practicality together to create synergy and change in community systems and internal operations. Skilled at facilitating teams of people, programs and organizations to realize endless possibilities for improvement and change.

Key Qualifications:

- Non-profit vision and strategic planning
- Program development
- Risk management
- State and community strategic planning
- Fundraising
- Organizational competencies for Evidence Based Practices
- Organizational development
- Budgeting and financial management
- Mergers and acquisitions
- Board and committee leadership
- Human resources and compensation plans

M.S.W., University of Washington, 1991
B.A. Psychology, University of Tulsa, 1983

BRIGID COLLINS FAMILY SUPPORT CENTER, BELLINGHAM, WA
Executive Director, Child Abuse Treatment & Prevention. February 1994 – present

Responsible for building a highly successful leadership team resulting in organizational growth from serving 97 families with two programs to serving 1700 families with 15 programs; increased annual budget from $125,000 and four staff to $1.8 million and 29 employees; and completed the $2.1 million purchase of a 15,000 square foot family support center and opening of a 1200 square foot satellite office.

Developed a multi-disciplinary response to child abuse and opened Children’s Advocacy Centers in two counties. Established the organization as a state leader in Evidence Based Practices creating a service menu of 12 EBP’s for families to choose from. Initiated state wide support and funding for EBP’s and developed statewide quality assurance standards.

Developed statewide models for Regional Crime Victim Service Centers; Foster Care Assessment Program; and, Identification, Investigation, and Prosecution of Child Abuse Involving Children with Special Health Care Needs. Developed innovative online multi-agency client centered case tracking program.

Directs the development and ongoing management of all agency activities including programs, management, budgeting, contracting, fundraising, human resources, community relations and board of directors.

Boards and Committees
Washington State Positive Parenting Program (Triple P)- Chair. 2008-09.
BYRON G. MANERING

Boards and Committees (continued)

UW School of Law-Court Improvement Training Assoc., Whatcom County Table of Ten. 2008-09.
UW School of Law-Court Improvement Training Assoc., Skagit County Table of Ten. 2008-09.
DSHS Children, Youth & Families Advisory Committee – 1998-00. Chair, 2002-05.
Chronic Neglect Prevention Task Force - 4 years. Steering Committee and Facilitator.
Domestic Violence Task Force Community Services Committee - 1995-02.
Child Behavioral and Mental Health Assessment Project - Steering Committee and Facilitator. 2004.
Child Abuse Prevention Association of WA Conference 1995 - Co-Chair and Moderator.
FEMA, Emergency Food and Shelter Board - 2001-09.
Community Economic Development Advisory Committee - Chair 2001-02.

VOLUNTEERS OF AMERICA OREGON, INC., PORTLAND, OR

Program Director, SE Child Care Center. August 1991 - January 1994

- Managed social service oriented child care program for 89 children.
- Increased client revenues by 36%.
- Developed and maintained program budget of $591,000.
- Chair of the Multnomah County OACCO.

FRIENDS OF YOUTH, ISSAQAH, WA


- Provided case management, client history intakes, and case plans.
- Maintained therapeutic milieu.
- Supervised and trained Youth Care Workers.

SNO-ISLE REGIONAL LIBRARY SYSTEM, MARYSVILLE, WA

Program Coordinator (Supervisor), Outreach. June 1988 - December 1989
Public Services Assistant III. May 1986 - May 1988
Senior Library Associate (Temporary). November 1987 - Feb 1988

NORTH SEATTLE YMCA, SEATTLE, WA

Lead Counselor, school aged child care. August 1985 - April 1986

TULSA CITY-COUNTY LIBRARY SYSTEM, TULSA, OK

Library Assistant, Children's Outreach. July 1984 - August 1985
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Jacob “Jack” Hovenier

Date: 24 Jun 15

Street Address: 4393 Swin Dr.

City: Ferndale Zip Code: 98248

Mailing Address (if different from street address): 702 Kentucky Htl PMS 391, Bellingham 98225

Day Telephone: (360) 734-0363 Evening Telephone: 

Cell Phone: (360) 317-4442

E-mail address: jack@nictiger.com

Name of board or committee: please see reverse

You must specify which position you are applying for. Please refer to vacancy list.

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

Which Council district do you live in? ( ) One ( ) Two ( ) Three

Are you a US citizen? Yes ( ) No ( )

Are you registered to vote in Whatcom County? Yes ( ) No ( )

Have you ever been a member of this Board/Commission? Yes ( ) No ( )

If yes, dates: ____________________________

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: ____________________________

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education. Please see attached

Please describe why you're interested in serving on this board or commission: Please see attached

References (please include daytime telephone number): Please see attached

Signature of applicant: ____________________________

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9. Please describe your occupation, qualifications, professional and/or community activities, and education.

My qualifications are two-fold: personal experience with the criminal justice system and incarceration, and decades of continuous substance abuse recovery and community advocacy for mental illness, chemical dependency and criminal justice.

My personal experience as a “consumer” is all in the 1980s. I spent more than 75 days in the Whatcom County Jail and more than 180 days in custody of the Department of Corrections. I have been continuously abstinent and active in a 12-step recovery program since May 1, 1990. I have not had any criminal record or convictions for more than a decade as I successfully met criteria for my convictions to be dismissed.

Qualifications are as follows:
- Behavioral Health Revenue Advisory Committee Member and Chairperson for four years (1/10 sales tax) – (5 years)
- Whatcom County Substance Abuse Advisory Board Member (4 years)
- Whatcom County Public Defense Advisory Committee Member (4 years)
- City of Bellingham, Budget Advisory Committee Member – (3 years)
- Board of Directors Member, Foundation For Recovery, Las Vegas NV (www.forrecovery.org)
- Whatcom County CASA (Court Appointed Special Advocate) – (2-years)
- CASA Keynote Speaker for Michigan CASA, Montana CASA, Washington CASA annual conventions (2014)
- Adoptive single parent of three former foster children
- Author and Lecturer of One Kid at a Time as Jake Dekker (Book about foster care, adoption and the child welfare system)
- 25-years of continuous leadership positions in 12-step recovery organizations.

10. Please describe why you’re interested in serving on the board of commission:

My experience as an advocate, consumer and child welfare advocate gives me a unique and valuable perspective to the issues in our community regarding criminal justice, substance abuse and mental health. As a social
liberal and fiscal conservative I believe it is wise to divert citizens from jail, when doing so doesn’t place our community at risk. It is better to work with an individual with a behavioral health problem before they are incarcerated than to rely on corrections staff to attempt to help them, and if they are incarcerated we need a jail facility that is humane.

REFERENCES

Bill Elfo, (360) 676-6650
Barbara Brenner, (360) 676-6690
Ken Mann, (360) 676-6690
Ann Hovenier, (360) 734-8444
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Susan Gribbin
Date: July 1, 2015
Street Address: 3006 Victor Street
City: Bellingham
Zip Code: 98225
Mailing Address (if different from street address):
Day Telephone: 360-647-0859 Evening Telephone: 360-647-0859 Cell Phone: 360-223-6144
E-mail address: s.gribbin@comcast.net

1. Name of board or committee:
   Incarceration Prevention and Reduction Task Force
   Concerned Citizen or Family Member of a Consumer

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 (x) 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? ( ) yes (x) 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 (x) no
   If yes, please explain:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community
   activities, and education.
   I work as a family support coordinator in the Ferndale School District (since 2006). Previously, I have worked
   in prevention/education, crisis intervention, program development (mentoring), health indicator, and
   community convening. I have a great deal of knowledge of the social service community in Whatcom County
   and have a keen interest in bringing new and promising programs to our community.

10. Please describe why you’re interested in serving on this board or commission:
    Members of my family have been involved in the intersection of mental health treatment and criminal justice
    systems. While each system had something to offer, I think we as a community can better serve everyone’s
    interests while achieving better results by developing a range of services that better match the individuals
    involved.

References (please include daytime telephone number):
   Gary Williams, 360-384-1017 / Julia Ortiz, 360-312-2096

Signature of applicant: Susan Gribbin

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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.
QUALIFICATIONS SUMMARY: Demonstrated ability to envision opportunities, articulate direction, set goals and achieve results. Broad managerial experience and a proven track record in diverse organizations. Skilled in building connections between an organization and its publics through creative, integrative and comprehensive planning and implementation. A flexible team player who can pursue tasks while focusing on the larger picture.

EDUCATION
   Placed top of the class in GPA.

EXPERIENCE
Family Community Coordinator, Ferndale School District
(2006 - Present) PO Box 698, Ferndale WA 98248
Remove social and economic barriers for families so that their children arrive in school ready to learn. Advocate for parents whose children are identified through the student support team process. Established Memorandums of Understanding between the Lummi Indian Business Council and the Ferndale School District.
   ▪ Serve as a resource to elementary school children, families, teachers and staff to identify and match community resources to a range of issues from health care to homelessness.
   ▪ Establish effective working relationship to improve the health for elementary students including behavioral health, dental health, and parenting education.
   ▪ Research and create web resources for students, parents and educators about the McKinney-Vento Homeless Education Act.

Lecturer, Human Services Program, Western Washington University
(2005 - 2007) Bellingham WA 98225-9087
Taught upper division students online and in the classroom, develop lectures, facilitate discussion, monitor community placement sites and evaluate student progress.
   ▪ Introduced students to the human service profession and their role in society through face-to-face seminars and via an online “virtual classroom”.
   ▪ Engaged students in developing their roles as interns, reflecting on lessons learned in the field and facilitating student leadership of and participation in seminar.
   ▪ Researched, created, and delivered a series of lesson plans on collaborative leadership and promising practices.

Campaign Executive, United Way of Whatcom County
(September - November 2005, Annual Campaign) 1511 Cornwall Avenue, Bellingham WA 98225
Worked to retain and increase gifting in over 50 business accounts in Whatcom County. Provided training, developed contacts, generated leads and delivered improved donations in the majority of businesses.
   ▪ Presented at campaign rallies that generated increased gifting in established accounts.
   ▪ Developed multiple messaging tools (face-to-face, email, poster) used to reach potential donors with the United Way message.
Coordinator, Whatcom Coalition for Healthy Communities
(2002-2004) no longer in operation
Operationalized the coalition’s mission to collaborate with the community to define opportunities and facilitate action to improve the health of Whatcom County.
- Active team member in the production, distribution and development of Community Counts 2002: Whatcom Indicator Project.
- Engaged multiple community stakeholders in local initiatives including mammography, community indicators, youth services, transportation, physical activity and leadership.
- Prioritized and streamlined monthly reports of financial activity and financial reporting to the board of directors.

Consortium Coordinator, Whatcom County Readiness to Learn Consortium
(2001-2003) no longer in operation
Coordinated efforts of consortium membership as they seek to ensure that all children have the opportunity to live in safe environments, to achieve their highest learning potential, and to develop into healthy, productive community members. (.25 FTE)
- Helped secure continued funding through education activities and grant writing efforts.
- Convened and facilitated quarterly consortium meeting of school and community partners.
- Assisted in developing community/school partnerships.

Director of Programs, Big Brothers Big Sisters of Northwest Washington
(1999 – 2002) no longer in operation
Responsible for managing and expanding mentoring and related programs to benefit children. Programs include the traditional One-to-One Mentoring Program and the new school-based Campus Buddies Program, Family Night Program, and Grupo de Apoyo Para la Familia. Hire and supervise staff.
- Oversaw operations for doubling the number of children served – mentor recruitment, screening, training, and matching.
- Authored proposals and delivered presentations that secured competitive grant funding for established and new program initiatives.
- Created and applied a team concept to meet increased demand for services.
- Identified and captured relevant data to evaluate and improve new programs.

Promotion Project Manager, International Society for Optical Engineers
(1999) PO Box 10, Bellingham, WA 98225-0010
Responsible for coordinating the process and development of marketing materials for regional and international symposium. Write and edit copy, meet deadlines and work as a team member.
- Honed direct mail strategies to increase target customer response rate.
- Collaborated with creative team to improve branding design elements.
- Developed a localized approach to assist the Human Resources Department in the recruitment of personnel.
Information Specialist II (Marketing), Western Washington University
(1996 – 1998) Western’s Extended Programs, Bellingham, WA 98225
Responsible for marketing of extension programs in the Puget Sound Region.
▪ Created Excel and Access tools to capture and formalize the elements of an integrated marketing plan for Western’s Woodring College of Education extension programs.
▪ Developed the plan by establishing collaborative working relationships with program staff, faculty, and administrators.
▪ Developed multiple direct mail strategies to survey prospective employers, students, and community partnerships for the introduction of new offerings and evaluation of current offerings.
▪ Secured prospect lists, created mailer/survey, evaluated results, and followed up.

Marketing Manager, Domestic Violence Sexual Assault Services
(1986 – 1995) previously Whatcom Crisis Services, 1407 Commercial Street, Bellingham, WA 98225
Responsible for the marketing efforts of service programs and gaming operation of Crisis Services. Administration of prevention education and volunteer recruitment. Promotion and advertising of Bingo 262. Participate as a member of both management teams.
▪ Increased service utilization in the community by a factor of 2.5 times by developing and implementing an information system that provided accurate, timely and useful information to the management team.
▪ Developed digital applications for a community resource guide, client tracking system and mailing activities. Worked with staff, consultants, and management teams to deliver useful applications.
▪ Developed, implemented, and evaluated (zero-based) annual plans for recruitment of volunteers, prevention/education events, and marketing of gaming operation.

Promotions: Community Relations Manager, 1989; Community Relations Coordinator, 1986.

Project/Technical Skills
Project Management Certificate Program (online), University of Washington, 2005.
Microsoft Office Suite 2013 Mac or PC.

Current Community Service
Commissioner, Bellingham Whatcom County Housing Authority, since 2013.
Member, Community Development Advisory Board (CDAB), since 2010.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: KIRSTEN BARRON                                      Date: 7/2/2015
Street Address:  891 E. LAKE SAMISH
City: BELLINGHAM                                           Zip Code: 98229
Mailing Address (if different from street address):  
Day Telephone: 360 739 8056                  Evening Telephone: 360 739 8056      Cell Phone: 360 739 8056
E-mail address: kbarron@barronsmithlaw.com

1. Name of board or committee-please see reverse:  Incarceration Prevention and
Reduction Task Force
Concerned citizen

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.)  

4. Which Council district do you live in?  

5. Are you a US citizen?  

6. Are you registered to vote in Whatcom County?  

7. Have you ever been a member of this Board/Commission?  

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?  

If yes, please explain:  

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community 
activities, and education.

SEE ATTACHED RESUME - 2 PAGES

10. Please describe why you’re interested in serving on this board or commission:  I have become increasingly 
concerned about the cost and effectiveness of the criminal justice system.  I think we need to develop clear goals as to what the 
system intends to accomplish and effective strategies to accomplish

References (please include daytime telephone number):  Justice Mary Fairhurst 1st Judge
(360) 357-2053

Signature of applicant:  

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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.
Kirsten's E-mail: kbarron@barronsmithlaw.com

Education:

- James Madison University (B.A. 1987)
- University of Richmond T.C. Williams School of Law
  - Law Review
  - Moot Court Board
  - ABA-ALI Writing Competition, Winner
  - Carrico Moot Court Competition, Winner

Practice Areas:

- Business
- Business Entity Formations
- Contracts
- Transactions:
  - Acquisitions
  - Sales
  - Mergers
  - Restructuring
- Employment:
  - Advice and Counsel
  - Investigations
  - Employment Agreements, including:
    - Noncompete Agreements
    - Severance Agreements
  - Employee Handbooks
  - Protection of Proprietary Information

Legal Experience:

Kirsten practices in the areas of business and employment law and brings over 20 years of legal experience to her work. She joined Barron Smith Daugert, PLLC in 1998 and became a partner in 2004. She takes a practical, solution oriented approach to all aspects of her practice.

Kirsten advises businesses, large and small, often serving in a general counsel role. Her business work includes entity formation and structure, general corporate governance, contract drafting and review, transactional work and ownership disputes.
Kirsten represents both employers and employees in all aspects of the employment relationship. She has represented employers with as few as three employees and as many as 500 employees. Her employment practice includes representation of unionized and non-unionized employers.

She brings the following experience to her practice:

- Civil Deputy Prosecuting Attorney for Grays Harbor County
- Associate with a boutique Northern Virginia firm, Chadwick, Washington, Moriarty, Elmore and Bunn, PC, working in the area of community association law, including general corporate advice and real estate and land use matters
- Law Clerk to the Honorable John A. Petrich of the Washington State Court of Appeals (Division II) and the Honorable Lawrence S. Margolis of the United States Federal Court of Claims Washington, D.C.

Certification:

- Certified in Internal Investigations - Council on Education in Management in association with The George Washington University

Community Service:

- Washington State Supreme Court Access to Justice Board of Directors, former Board Member and Chair
- Washington State Supreme Court Public Trust and Confidence Committee, former Member
- LAW Advocates, pro bono/access to justice, Board Member and former Chair
- Southside Soccer Board of Directors, former Member
- Pickford Film Association, former Board Member
- Slum Doctor Programme, former Board Member
- Allied Arts of Whatcom County, former Board Member
- YMCA, former Volunteer

Awards:

- 2009 Local Hero Award from the Washington State Bar Association
- 2012 Joe Pemberton Award for Service from the Whatcom County Bar Association
- 2015 President’s Award from the Legal Foundation of Washington
- 2015 Sehome High School Volunteer of the Year
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Everett Barton
Date: June 23, 2015
Street Address: 1213 Whatcom St. Suite 418
City: Bellingham
Zip Code: 98229
Mailing Address (if different from street address): P.O. Box 6061, Bellingham, 98227
Day Telephone: __________ Evening Telephone: __________ Cell Phone: 360-255-9501
E-mail address: abarton59@yahoo.com

1. Name of board or committee—please see reverse:
Gail Division Task Force Committee

2. You must specify which position you are applying for. Please refer to vacancy list.
Citizen Volunteer

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 (x) Two ( ) Three

5. Are you a US citizen? (x) yes ( ) no

6. Are you registered to vote in Whatcom County? (x) yes ( ) no

7. Have you ever been a member of this Board/Commission? (x) yes ( ) no
If yes, dates: ____________________________

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? (x) yes ( ) no
If yes, please explain: ____________________________

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
Retired former business owner in Hawaii; Temp work for Whatcom County; response to RFPs on Lake Whatcom Water Quality Task Force (2002); as meeting recorder, Whatcom County’s Water Resource Inventory and Assessment Task Force as meeting recorder (2004)

10. Please describe why you’re interested in serving on this board or commission:
I am concerned about broadening the definition of mental health

References (please include daytime telephone number):
Ann Deegan (676-6724); Barbara Berman (676-6757); Pete Kremen (676-6690)

Signature of applicant: ____________________________

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Jill Bernstein

Street Address: 3433 South Bay

City: Sedro Woolley

Mailing Address (if different from street address):

Day Telephone: 360-595-2110

Evening Telephone: 360-595-2110

Cell Phone: 360-961-2677

E-mail address: jberstein02@gmail.com

Date: July 10, 2015

Zip Code: 98284

1. Name of board or committee—please see reverse:
   Incarceration Prevention and Reduction Task Force

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.)

4. Which Council district do you live in?

5. Are you a US citizen?

6. Are you registered to vote in Whatcom County?

7. Have you ever been a member of this Board/Commission?

   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?

   If yes, please explain: I am the interim Executive Director at LAW Advocates (ending the week of 7/13). They have some grant money from Whatcom County.

   You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

   I am a retired criminal defense attorney. I had a career that included public and private defense work. I am the former President of the Washington Association of Criminal Defense Lawyers and the Immediate Past President of the League of Women Voters of Bellingham/Whatcom County. I have a radio show called South Fork Law focused on law and justice issues and a radio show called Elected Connections. I am the current Interim Executive Director at Law Advocates.

10. Please describe why you’re interested in serving on this board or commission:

    I spent almost thirty years involved in the criminal justice system in our community and have continued to involve myself trying to educate our community on issues which relate to crime and punishment.

    I think that my decades of experience provide me with an understanding of what we have done right and well with regards to criminal justice and where we can improve our responses to these issues. I am very anxious to be a part of a solutions oriented group that will be working to improve our response to crime.

References (please include daytime telephone number):

   Rebecca Johnson - current President League of Women Voters, 319-1429,

   Rajeev Majumdar - current President Bpard of Directers Law Advocates. 384-6400.

Signature of applicant:

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Linda Santini  Date: July 10, 2015
Street Address: 2112 Vining Drive
City: Bellingham  Zip Code: 98229
Mailing Address (if different from street address):
Day Telephone (360) 671-3079  Evening Telephone: Same  Cell Phone:
E-mail address: Linsant 992 Gmail.com

1. Name of board or committee—please see reverse: Incarceration Prevention Reduction Task Force
2. You must specify which position you are applying for. Please refer to vacancy list. Concerned Citizen
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:

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following questions.

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

10. Please describe why you’re interested in serving on this board or commission: I have many years of experience in helping loved ones with psychiatric problems. I would like to help our county reduce the recidivism rate of our mentally ill inmates.

References (please include daytime telephone number): Michael & Rosa Hengland 733-4935
Greg Stern, MD 676-6724  Naomi Rudo-Stern 647-2076

Signature of applicant: Linda Santini

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**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tbody>
<tr>
<td>Originator:</td>
<td>X</td>
<td>7/13/15</td>
<td></td>
<td>07/21/15</td>
<td>Intro</td>
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<tr>
<td>Division Head:</td>
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<tr>
<td>Dept. Head:</td>
<td></td>
<td>07/13/15</td>
<td></td>
<td>08/04/15</td>
<td>Finance Committee; Council</td>
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<tr>
<td>Prosecutor:</td>
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<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
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</table>

**TITLE OF DOCUMENT:** 2015 Supplemental Budget Request #9

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

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

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Supplemental #9 requests funding from the Conservation Futures Fund:

1. To appropriate $4,710 to fund Wildlife Advisory Committee staff.

From the Public Utilities Improvement Fund:

2. To appropriate $63,000 to fund HVAC upgrades at East Whatcom Regional Resource Center to achieve LEED goals.

**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>
ORDINANCE NO. 9 OF THE 2015 BUDGET

WHEREAS, the 2015-2016 budget was adopted November 25, 2014; and,
WHEREAS, changing circumstances require modifications to the approved 2015-2016 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 2015-2016 Whatcom County Budget Ordinance #2014-065 is hereby amended by adding the following additional amounts to the 2015 budget included therein:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Expenditures</th>
<th>Revenues</th>
<th>Net Effect</th>
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<tbody>
<tr>
<td>Conservation Futures Fund</td>
<td>4,710</td>
<td>-</td>
<td>4,710</td>
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<tr>
<td>Public Utilities Improvement Fund</td>
<td>63,000</td>
<td>-</td>
<td>63,000</td>
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<tr>
<td><strong>Total Supplemental</strong></td>
<td><strong>67,710</strong></td>
<td>-</td>
<td><strong>67,710</strong></td>
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</tbody>
</table>

ADOPTED this ___ day of ________________, 2015.

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>
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<tbody>
<tr>
<td>Conservation Futures Fund</td>
<td>To fund Wildlife Advisory Committee staff.</td>
<td>4,710</td>
<td>-</td>
<td>4,710</td>
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<tr>
<td>Public Utilities Improvement Fund</td>
<td>To fund HVAC upgrades at East Whatcom Regional Resource Center to achieve LEED goals.</td>
<td>63,000</td>
<td>-</td>
<td>63,000</td>
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<tr>
<td>Total Supplemental</td>
<td></td>
<td>67,710</td>
<td>-</td>
<td>67,710</td>
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</table>
Supplemental Budget Request

Planning & Development Services

Expenditure Type: One-Time  Year 1  2015  Add'l FTE ✓  Add'l Space □  Priority 1

Name of Request: Wildlife Advisory Committee Staff

Department Head Signature (Required on Hard Copy Submission)  Date

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<tr>
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<th>Object Description</th>
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<td>6110</td>
<td>Regular Salaries &amp; Wages</td>
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<td>6210</td>
<td>Retirement</td>
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<td>6230</td>
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1a. Description of request:
.25 FTE for staff person to administer the newly created Wildlife Advisory Committee per Ordinance No.: 2C °15-031 in support of the Comp Plan Update.

1b. Primary customers:
Whatcom County Residents

2. Problem to be solved:
New position for a new committee.

3a. Options / Advantages:
Council supported Ordinance.

3b. Cost savings:

4a. Outcomes:
Committee will provide input for the Comp Plan Update related to wildlife use and habitat by July 31, 2016.

4b. Measures:
Citizen input will be channeled through the committee and used to prepare the Comp. Plan Update.

5a. Other Departments/Agencies:

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

6. Funding Source:
Conservation Future Fund
Supplemental Budget Request

Administrative Services
Supp1 ID # 1980  Fund 332  Cost Center 332100  Originator: Mike Russell

Facilities Management

Expenditure Type: One-Time  Year 1 2015  Add'l FTE ☐  Add'l Space ☐  Priority 1

Name of Request: EWRRC LEED completion

X

Department Head Signature (Required on Hard Copy Submission)  Date

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<th>Object Description</th>
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1a. Description of request:
The East Whatcom Regional Resource Center (EWRRC) has had some difficulties in getting the Certification for LEED approval. We will need to install some high ceiling fans and make some minor changes to the HVAC system to achieve our LEED goals.

1b. Primary customers:
Whatcom County and the citizens that utilize the EWRRC.

2. Problem to be solved:
The EWRRC has had some difficulties in getting the Certification for the LEED approval. We will need to install some high ceiling fans and make some minor changes to the HVAC system to achieve our LEED goals. Once the fans are installed and the HVAC repairs are made, the LEED process can be completed.

3a. Options / Advantages:
Facilities has worked with FSI engineering to come up with the most efficient ways of achieving the LEED goals. We have confirmed the work that is required and have gathered some bids to complete this work. Facilities Management has made several minor repairs in an effort to bring the costs down. The work that is left will need to be done by an HVAC contractor and then the LEED documentation can be completed.

3b. Cost savings:
This work, when completed will reduce the energy consumption for the building as well as to help regulate an even and constant temperature throughout the building.

4a. Outcomes:
When this work is completed the County will achieve the LEED certification needed for a building of this size.

4b. Measures:
When this work is completed the County will achieve the LEED certification needed for a building of this size.

5a. Other Departments/Agencies:
Facilities will be completing this work with FSI engineering and the contractor selected.

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

6. Funding Source:
Public Utility Improvement Fund
# 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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<tr>
<td>Dept. Head:</td>
<td>J.E. &quot;Sam&quot; Ryan</td>
<td>7/9/15</td>
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<td>August 4, 2015</td>
<td>NR Committee</td>
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<td>Royce Buckingham</td>
<td>7/9/15</td>
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<td>Purchasing/Budget:</td>
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<tr>
<td>Executive:</td>
<td>Jack Lowes</td>
<td>7/3/15</td>
<td>WHATCOM COUNTY COUNCIL</td>
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## TITLE OF DOCUMENT:
A Resolution Approving Recommendations on Applications for Open Space Current Use Assessment

## ATTACHMENTS:
Cover Memo, Draft Resolution, Planning Commission Facts & Findings; Excerpts From Planning Commission June 25, 2015 Work Session Draft Minutes; Staff Report; Maps; Photos; and other Background Documents.

<table>
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<tr>
<th>SEPA review required?</th>
<th>( ) Yes (X) No</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes (X) No</th>
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## 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, PDS staff is forwarding recommendations made by the Whatcom County Planning Commission to the County Council on whether to approve in whole or in part or deny three applications for open space current use assessment as authorized under the Open Space Taxation Act (Chapter 84.34 RCW). The land that is the subject of these applications is located entirely within unincorporated Whatcom County, and pursuant to RCW 84.34.037 the County Council (county legislative authority) is the granting authority on these applications.

A draft resolution has been prepared that reflects recommendations made by the Planning Commission, and this resolution is attached for review by the County Executive and County Council. PDS staff is proposing to present a brief overview on the subject applications to Council Natural Resources Committee on August 4, 2015 with a required public hearing to follow, the evening of the same day.

* Distribution Request: Assessors Office – Lauren Smith

## COMMITTEE ACTION:

## COUNCIL ACTION:

<table>
<thead>
<tr>
<th>Related County Contract #:</th>
<th>Related File Numbers:</th>
<th>OS2015-1</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](http://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 6, 2015

SUBJECT: 2015 Open Space Current Use Assessment Applications

Presented here for your consideration is an attached packet containing recommendations from the Planning Commission and PDS staff on whether to approve in whole or in part, or deny three applications to classify land as “Open Space Land”, for the purposes of taxation as authorized under Chapter 84.34 of the Revised Code of Washington (RCW).

The subject applications are all located on lands within the jurisdiction of unincorporated Whatcom County, and pursuant to RCW 84.34.037, the Whatcom County Council (county legislative authority) is the granting authority on these applications.

At a June 25th 2015 Work Session, the Whatcom County Planning Commission voted unanimously to recommend that the County Council approve all of the applications (subject to the same conditions as staff with one exception): one applicant (Balolia) has requested that the Council waive the normal public access that is typically required. The Planning Commission voted to require public access, and staff is supporting the applicant’s request that the Council waive this requirement, for a number of reasons that are thoroughly addressed in the staff report and in Planning Commission Findings and Recommendations.

Staff is proposing to present a brief overview on the subject applications in Council Natural Resources Committee on August 4, 2015, with a required public hearing to be held by the full Council, the evening of the same day.

A draft resolution has been prepared for your review that reflects recommendations made by the Planning Commission.

Please contact me if you have any questions.

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, in pertinent part, applications for the classification of Open Space Land and its sub-classification Farm & Agricultural Conservation 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 or deny such applications; and

WHEREAS, Pursuant to RCW 84.34.055 and WAC 458-30-330 Whatcom County has adopted “Open Space Policies and Criteria and Public Benefit Rating System” (PBRS) by Ordinance No. 1995-040, which is used by staff to rate applications for Open Space Land and its sub-classification, Farm & Agricultural Conservation Land; and

WHEREAS, Applications for Open Space Land and Farm & Agricultural Conservation Land are evaluated with the PBRS 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 PBRS, public access is a condition of approval for Open Space Land applications, except that this requirement may be waived by the Council in certain circumstances, such as
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, Whatcom County terminated its Open Space Timber Land Program under Whatcom County Ordinance 2014-055, merging it with its Designated Forest Land program administered by the County Assessor under Chapter 84.33 RCW; and

WHEREAS, On June 25, 2015, 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 OS2015-1, and after deliberations on each application voted unanimously that the Whatcom County Council should approve each of the three applications subject to specific conditions; 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 acting as the granting authority; and

WHEREAS, Pursuant to RCW 84.34.037, applications which are in an area subject to a comprehensive plan shall be acted upon in the same manner in which an amendment to the comprehensive plan is processed, which includes review by the Whatcom County Planning Commission, and prior to approval by the County Council acting as granting authority, a public hearing must be held; and

WHEREAS, the Whatcom County Council held a public hearing on the subject applications; 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 for public hearings have been met; and

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

1. In 2014, Whatcom County Planning and Development Services received three applications to classify land as “Open Space Land” under the open space current use program as authorized by the Open Space Taxation Act, Chapter 84.34 RCW on lands located within the jurisdiction of Whatcom County. These applications were processed in one group under Master File Number OS2015-1.
2. The three applications referenced in Master File No. OS2015-1 are for the classification of Open Space Land (OSL). Upon receipt of these applications, Planning and Development Services staff contacted applicants to further discuss details of each proposal, and following site visits to each location evaluated the applications with the 1995 Whatcom County Open Space Policy and Criteria and Public Benefit Rating System (PBRS).

3. Staff prepared a report for the Whatcom County 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. 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 25, 2015. This report was also sent to individual applicants prior to the meeting in both hard copy and by email, and it was also posted to the Planning Commission webpage on the Whatcom County website.

4. At the June 25, 2015 Planning Commission Work Session, staff gave a brief introductory overview presentation on the Open Space Current Use Program, its statutory and local authority, a brief overview on history of the Open Space Taxation Act, and outlined the respective roles of Planning Commission, County Council, County Assessor’s Office, and PDS staff in reviewing and approving these type of applications. Staff explained that although the Open Space Taxation Act authorizes three different open space classifications: 1) “Open Space Land (including its sub-classification, “Farm and Agricultural Conservation Land”); 2) “Farm and Agricultural Land”; and 3) “Timber Land”, PDS no longer receives and processes applications for “Timber Land” because of legislative action taken by the Whatcom County Council in October 2014 which terminated that program, merging it with the Designated Forest Land program administered by the County Assessor’s Office (WC Ordinance 2014-055).

5. 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”.

6. Staff also noted that based on earlier Planning Commission suggestions, and pursuant to 2013 direction from the County Council and County Executive, a preliminary draft report was prepared by staff to summarize the PDS Open Space Current Use Program, analyze various issues in program administration, and recommend a number of key areas for program improvement, and that this report (dated December 6, 2013) was submitted to PDS management and the County Executive. Staff indicated that although there are no immediate plans to initiate an update to the PBRS, PDS staff has proposed a new policy in Chapter 2, Land Use of the Whatcom County Comprehensive Plan that encourages consideration of a future update to the PBRS, and that this proposed new policy is currently under review as part of the 2016 - 8 Year Periodic Review and Update of the Whatcom County Comprehensive Plan.

7. Pursuant to the PBRS, a primary role of the Planning Commission is to consider the “tax shift” when making its recommendations to the County
Council as to whether an application should be approved or disapproved. Staff gave a very brief overview of the “tax shift”, and explained how when land is approved for classification as Open Space Land it is assessed for tax purposes on the basis of its “current use” and because this “current use” value is generally lower than fair market value, the assessed value of the particular property approved for classification is reduced, and this also reduces the overall assessed value of real property in a certain geographic area, thereby affecting those taxing districts with authority to levy taxes in that area. If aggregate assessed property values in a certain area decrease, levy rates generally increase, and this ensures that the budgets of those districts with taxing authority in the particular geographic area, are met. The increase in each particular taxing districts’ ‘levy rate’ will have an effect on all property owners who are subject to the same taxing district levy as that of the application being approved.

8. Upon conclusion of staff overview on the Whatcom County PDS Open Space Current Use Program, staff presented each individual application referenced in Master File OS2015-1, pausing to answer questions from commissioners. Commissioners deliberated on each application following staff’s presentation, and then voted on recommendations. Although not a public hearing because the County Council will hold a public hearing on these applications, Commissioners opened up the meeting for public comment, and considered these comments during their deliberations.

9. Staff recommended approval on the first application for Open Space Land (Balolia) [OSP2015-00001] consisting of 48.04 acres on three different parcels. It was noted that because one of the parcels contained a residence (although abandoned), acres eligible for classification as open space land would be limited to the land only, and therefore one acre upon which the abandoned residence is situated was removed from application review bringing the total acres under review for the Open Space Land classification to 47.04 acres. 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 (PBRS) is consistent with a staff recommendation of approval.

10. Staff noted that the land in the Balolia application is located in the Lake Whatcom Watershed, which is a Whatcom County Transfer of Development Rights (TDR) “sending area”. During this discussion Commissioners noted a typographical error on the PBRS rating sheet and staff clarified that as noted in the staff report, the site is subject to a Comprehensive Plan designation of Rural with Rural zoning establishing maximum density at one dwelling unit per five acres. Staff also noted that the applicant had pre-certified transfer of development rights on a number of contiguous parcels including one of the subject parcels, pursuant to WCC 20.89 – Density Transfer Procedure. Staff explained that although certified to authorize such a transfer, no density had yet been transferred to a “Receiving Area” (which includes all County URMX zones except Bennett Drive).

11. Staff also noted that Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species were identified on the site, along with riparian habitat associated with a fish bearing stream with a known
distribution of Resident Coastal Cutthroat Trout, and that a State Candidate Species is also documented as present (Northern Goshawk) according to WDFW mapping. Staff provided Commissioners with a WDFW 2015 hand-out with additional information about status of Washington State and Federal species. Members of the public asked how staff arrives at determinations as to whether or not such species are present on any particular site. Staff indicated that in addition to other resources, staff relies on WDFW studies and maps, including WDFW Priority Habitat and Species (PHS) program information and maps. Staff noted that the applicants were proposing that classification of the land as "open space land" would enhance preservation of shorelines, preserve mature conifers and deciduous species, protect native species, and protect soils and water quality in the Lake Whatcom Watershed. Staff also noted that the one of the parcels in the application is subject to a split Rural/Conservancy Shoreline designation under the Whatcom County Shoreline Management Program on Lake Whatcom. Commissioners asked whether the three parcels of the Balolia application could be evaluated separately. Staff indicated that the three parcels were part of one application, and that staff opinion was that had they been rated separately, that the overall public benefit rating would be the same.

12. After evaluating the application with the PBRS, staff assigned it a public benefit rating (PBR) of 65.6. Staff indicated that if the application were to be approved, the difference between its assessed 'fair market' value compared to its valuation on the basis of its 'current use' would result in an estimated tax shift of approximately $11,834.00 per year (on the basis of 2014 fair market value per acre).

13. The Balolia application included a request that the County Council waive the PBRS public access requirement. Staff noted that the Balolia application would normally have received a higher public benefit rating if the applicant had proposed a “certain degree of public access”, but even without public access proposed, the application received a PBR rating (65.6) that is consistent with a staff recommendation of approval.

14. Staff generally supported the applicants request that the PBRS requirement for public access be waived by the County Council because: the site contains Washington State Department of Fish and Wildlife Priority Habitat and Species (Resident Cutthroat Trout); and a State Candidate species (Northern Goshawk) has been documented on the site; and because of the sites’ proximity to a State and Federal Threatened Species (Marbled Murrelet) located on the adjacent shore of Lake Whatcom. In addition, pursuant to the Washington State Open Space Taxation Act, the County Council as Granting Authority has authority to approve applications subject to special conditions, and the County’s PBRS specifies that the County Council may waive the PBRS requirement of public access under certain circumstances, including the presence of a documented occurrence of a State or Federal Endangered, Threatened or Sensitive Species, or when the purpose of classification is to preserve wetlands or historical or cultural sites; and because on occasions in the past the County Council has exercised its discretion broadly when making decisions to waive public access requirements, especially when (as in this case) an owner/applicant does not reside on the premises or maintain an onsite presence, and when site conditions are such that the public may be
exposed to public health and safety risks; and because in this case the site contains an abandoned residence in a state of disrepair, and finally, because the site is located adjacent to an outdoor recreational camping facility for youth (Camp Firwood), which might generate unauthorized or unmonitored ‘exploration’ of the site by youth, thereby increasing risk of potential danger to the public, and/or liability to the property owner.

15. After some discussion amongst Commissioners exploring various viewpoints, and after considering additional input from staff and the public, Planning Commissioners concluded that the benefits of public access to the site would likely outweigh potential risks to public health and safety, provided that public access to sensitive or priority wildlife habitat is reviewed by a Wildlife Biologist. Commissioners voted unanimously to recommend that the County Council approve the entire Balolia application for Open Space Land as described in the staff report and File No. OSP2015-00001 (subject to a correction in the evaluation sheet, as noted in above Finding No. 10) and as a condition of approval requiring public access; provided that public access to sensitive or priority habitat be reviewed by a Wildlife Biologist.

16. Staff recommended approval on the second application for Open Space Land (Purviance) [OSP2015-00002] consisting of 5.59 acres of a 6.59 acre parcel located within the urban growth area reserved for City of Bellingham’s future growth. This recommendation of approval 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 (PBRS) is consistent with a staff recommendation of approval.

17. Staff noted that with the exception of driveway, residence and garden area, that the Purviance land is almost completely vegetated with mature conifers and deciduous species, and native understory, providing habitat to a number of terrestrial mammals, amphibians, birds. The towering canopy shelters wildlife and regulates temperatures in a seasonal stream, and offers visually pleasing scenery to travelers on Aldrich Road. The site is also used for an offsite stormwater facility that serves adjacent commercial development, utilizing the seasonal stream bed for overflow and drainage.

18. Proposed public access to the Purviance property was discussed verbally during a site visit, and later confirmed with a public access statement and proposed rules of public conduct submitted in writing by the applicant. Public access proposed by the applicant is to make the site available to individuals or small groups for the purpose of scientific study or educational opportunities by appointment. Per the applicant there is proposed off-street parking that will accommodate up to four cars, and an open space sign could be posted as shown on the maps on file under OSP2015-00002 near the property entrance at 4431 Aldrich Road.

19. After evaluating the application with the PBRS, staff assigned it a public benefit rating (PBR) of 68.8. Staff explained that if the application were to be approved, the difference between its assessed ‘fair market’ value compared to its valuation on the basis of its ‘current use’ would result in
an estimated tax shift of approximately $1,512.00 per year (on the basis of 2014 fair market value per acre).

20. Commissioners discussed how approving applications for the classification of open space land might impact the affordability of housing in that such approval would shift taxes to land upon which such affordable housing might be located. Staff noted that pursuant to the Open Space Taxation Act applications for open space land are required to be reviewed in a similar manner as a county's comprehensive land use plan, and that "Housing" is one element of the Whatcom County Comprehensive Plan. However, through their discussion, Commissioners recognized that the existing PBRS does not contain specific criteria for considering whether or not such approvals might impact housing affordability, and therefore such consideration would not be a criterion upon which to base a recommendation at this time.

21. Commissioners also discussed future trail routes (in the preliminary design and planning stage) to be located between Aldrich Road and the Cordata area, but concluded that this particular site might not be an appropriate linkage to support that particular trail corridor as envisioned. Planning Commissioners generally concluded that the public benefit of classifying this land would be in the public interest relative to the tax shift in that it would serve to provide public access to and further protect priority Palustrine habitat. Commissioners voted unanimously to recommend that the County Council approve the Purviance application subject to the conditions recommended in the staff report and as described in File No. OSP2015-00002.

22. Staff recommended approval on the third application for Open Space Land (Bar Rental LLC) [OSP2015-00003] consisting of 4.54+/- acres within the urban growth area reserved for City of Bellingham future growth. This recommendation of approval 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 (PBRS) is consistent with a staff recommendation of approval.

23. Staff noted that the proposal was to classify 4.54+/- acres of a 7.89 acre parcel that is completely vegetated with a mixed deciduous forest, native understory and delineated wetlands that provides wildlife habitat and serves as a buffer between areas of human habitation and built environment. The site is contiguous to an existing commercial parking lot that serves neighboring Bellingham International Airport customers.

24. Proposed public access to the Bar Rental LLC property was discussed verbally during a site visit, and later confirmed with a public access statement and proposed rules of public conduct submitted in writing by the applicant's Agent. The proposal is that the applicant would make the site available to individuals or small groups by appointment for the purpose of scientific study or educational opportunities by appointment. In addition the applicant proposed to construct an unpaved loop trail around the delineated wetlands subject to approval under Whatcom County Critical Areas Ordinance (WCC 16.16). The applicant proposes to make opportunities available to youth or scouting groups to develop and maintain the proposed trail, and also proposes to be available to offer
information about the offsite wetland mitigation banking process that was successfully utilized in developing the commercial parking lot area on the larger parcel. Per the applicant there is dedicated off-street parking to accommodate up to two cars, and additional off-street parking would be made available by special arrangement. The required Open Space Sign was proposed to be installed adjacent to the proposed trail head accessed from the interior of the commercial parking area as shown on the maps on file under OSP2015-00002.

25. After evaluating the application with the PBRS, staff assigned it a public benefit rating (PBR) of 71.38. Staff noted that if the application were to be approved, the difference between its assessed ‘fair market’ value compared to its valuation on the basis of its ‘current use’ would result in an estimated tax shift of approximately $3,419.00 per year (on the basis of 2014 fair market value per acre).

26. Commissioners generally concluded that the public benefit of classifying the Bar Rental LLC land would be in the public interest relative to the tax shift in that public access to the site would provide a public benefit. Commissioners voted unanimously to recommend that the County Council approve the Bar Rental LLC application subject to the conditions recommended in the staff report and as described in File No. OSP2015-00003.

27. On July 6, 2015, 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 OS2015-1, and this report was reviewed for accuracy and signed by the Planning Commission Chair and Planning Commissioner, Secretary.

28. On July 6, 2015, 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 OS2015-1, and forwarded this to the Whatcom County Council. The agenda bill requested that the draft resolution be scheduled for introduction at the regularly scheduled Council Meeting to be held on July 21 2015, and also included a request for a public hearing to be scheduled on August 4, 2015.

29. On July 21, 2015, the Whatcom County Council voted to introduce a draft resolution prepared for Council action on applications referenced in File No. OS2015-1 for a future Council meeting and public hearing date.

30. A public hearing was scheduled to take place before the County Council on applications referenced in File No. OS2015-1 at the Council’s regularly scheduled evening meeting held on August 4, 2015. 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 on August 4, 2015 a public hearing would be held on their individual applications.

31. On the morning of August 4, 2015 Whatcom County Council Natural Resources Committee considered recommendations from PDS staff and recommendations from the Planning Commission forwarded by staff on all applications referenced under File No. OS2015-1.
32. On the evening of August 4, 2015, the Whatcom County Council held a public hearing on all applications referenced under File No. OS2015-1, and after considering all relevant information, and after considering input from the public, voted on recommendations as to whether to approve in whole or in part or deny the subject applications:

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 OS2015-1 listed below are hereby approved subject to conditions and applicable scores as noted herein:

Open Space Land (OSL)

OSP2015-00001 – Neila & Shiraz Balolia

New application to classify property as Open Space Land (47.04 OSL acres)

1728 Lake Whatcom Boulevard

Parcel A: GEO ID: 370408 382169 0000: = 19.48 Open Space Land application acres (19.48 total parcel acres)
Parcel B: GEO ID: 370408 387072 0000: 21.2 Open Space Land application acres (21.2 total parcel acres)
Parcel C: GEO ID: 370409 011163 0000: 6.36 Open Space Land application acres (7.36 total parcel acres)

PBR 65.6

ESTIMATED SHIFT IN TAXES IF APPROVED: $11,834.00

Approval: subject to the following conditions:

1. Public Access Required: Provided, that public access to sensitive or priority wildlife habitat be reviewed by a Wildlife Biologist
2. Posted Open Space Sign near the property entrance at 1728 Lake Whatcom Boulevard, visible to road users
3. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00001
4. Hold Harmless Agreement
OSP2015-00002 – Sara L. Purviance

New application to classify property as Open Space Land (5.59 OSL Acres)
4431 Aldrich Road

GEO ID: 380211 527492 0000: 5.59 Open Space Land application acres (6.59 total parcel acres)

PBR 68.8

ESTIMATED SHIFT IN TAXES IF APPROVED: $1,512.00

Approval, subject to the following attached special conditions:

1. Public Access Required: To individuals or small groups by appointment in accordance with the owners Public Access Statement referenced File No. OSP2015-00002
2. Posted Open Space Sign near the property entrance at 4431 Aldrich Road, visible to road users
4. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00002
5. Hold Harmless Agreement

OSP2015-00003 – Bar Rental LLC

New application to classify property as Open Space Land
3909 Bennett Drive

GEO ID: 380214 193464 0000: 4.54 +/- Open Space Land application acres; (7.89 total parcel acres)

PBR 71.38

ESTIMATED SHIFT IN TAXES IF APPROVED: $3,419.00

Approval, subject to the following attached special conditions:

1. Public Access Required: To individuals or small groups by appointment in accordance with the owners Public Access Statement referenced File No. OSP2015-00003
2. Posted Open Space Sign at 3909 Bennett Drive adjacent to the proposed trail head accessed from the interior of the commercial parking area as shown on the maps on file under OSP2015-00002
4. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00003
5. Hold Harmless Agreement

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 ________________________, 2015

WHATCOM COUNTY COUNCIL                      WHATCOM COUNTY, WASHINGTON

ATTEST:

Dana Brown-Davis                             Carl Weimer
Clerk of the Council                         Council Chair

APPROVED AS TO FORM:

__________________________________________
Civil Deputy Prosecutor
WHATCOM COUNTY PLANNING COMMISSION
FINDINGS OF FACT, REASONS FOR ACTION, AND
RECOMMENDATIONS

Applications for Open Space Current Use Assessment
Master File Number OS2015-1

THE WHATCOM COUNTY PLANNING COMMISSION ENTERS THE FOLLOWING
FINDINGS OF FACT, REASONS FOR ACTION, AND RECOMMENDATIONS:

FINDINGS OF FACT AND REASONS FOR ACTION

1. In 2014, Whatcom County Planning and Development Services received
three applications to classify land as “Open Space Land” under the open
space current use program as authorized by the Open Space Taxation
Act, Chapter 84.34 RCW on lands located within the jurisdiction of
Whatcom County. These applications were processed in one group
under Master File Number OS2015-1.

2. The three applications referenced in Master File No. OS2015-1 are for
the classification of Open Space Land (OSL). Upon receipt of these
applications, Planning and Development Services staff contacted
applicants to further discuss details of each proposal, and following site
visits to each location evaluated the applications with the 1995
Whatcom County Open Space Policy and Criteria and Public Benefit
Rating System (PBRS).

3. Staff prepared a report for the Whatcom County 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. 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 25, 2015. This report was also sent to individual
applicants prior to the meeting in both hard copy and by email, and it
was also posted to the Planning Commission webpage on the Whatcom
County website.

4. At the June 25, 2015 Planning Commission Work Session, staff gave a
brief introductory overview presentation on the Open Space Current Use
Program, its statutory and local authority, a brief overview on history of
the Open Space Taxation Act, and outlined the respective roles of
Planning Commission, County Council, County Assessor’s Office, and
PDS staff in reviewing and approving these type of applications. Staff
explained that although the Open Space Taxation Act authorizes three
different open space classifications: 1) "Open Space Land (including its
sub-classification, “Farm and Agricultural Conservation Land”); 2) “Farm and Agricultural Land”; and 3) “Timber Land”, PDS no longer receives and processes applications for “Timber Land” because of legislative action taken by the Whatcom County Council in October 2014 which terminated that program, merging it with the Designated Forest Land program administered by the County Assessor’s Office (WC Ordinance 2014-055).

5. 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”.

6. Staff also noted that based on earlier Planning Commission suggestions, and pursuant to 2013 direction from the County Council and County Executive, a preliminary draft report was prepared by staff to summarize the PDS Open Space Current Use Program, analyze various issues in program administration, and recommend a number of key areas for program improvement, and that this report (dated December 6, 2013) was submitted to PDS management and the County Executive. Staff indicated that although there are no immediate plans to initiate an update to the PBRS, PDS staff has proposed a new policy in Chapter 2, Land Use of the Whatcom County Comprehensive Plan that encourages consideration of a future update to the PBRS, and that this proposed new policy is currently under review as part of the 2016 - 8 Year Periodic Review and Update of the Whatcom County Comprehensive Plan.

7. Pursuant to the PBRS, a primary role of the Planning Commission is to consider the “tax shift” when making its recommendations to the County Council as to whether an application should be approved or disapproved. Staff gave a very brief overview of the “tax shift”, and explained how when land is approved for classification as Open Space Land it is assessed for tax purposes on the basis of its “current use” and because this “current use” value is generally lower than fair market value, the assessed value of the particular property approved for classification is reduced, and this also reduces the overall assessed value of real property in a certain geographic area, thereby affecting those taxing districts with authority to levy taxes in that area. If aggregate assessed property values in a certain area decrease, levy rates generally increase, and this ensures that the budgets of those districts with taxing authority in the particular geographic area are met. The increase in each particular taxing districts’ ‘levy rate’ will have an effect on all property owners who are subject to the same taxing district levy as that of the application being approved.

8. Upon conclusion of staff overview on the Whatcom County PDS Open Space Current Use Program, staff presented each individual application referenced in Master File OS2015-1, pausing to answer questions from commissioners. Commissioners deliberated on each application following staff’s presentation, and then voted on recommendations. Although not a public hearing because the County Council will hold a
public hearing on these applications, Commissioners opened up the meeting for public comment, and considered these comments during their deliberations.

9. Staff recommended approval on the first application for Open Space Land (Balolia) [OSP2015-00001] consisting of 48.04 acres on three different parcels. It was noted that because one of the parcels contained a residence (although abandoned), acres eligible for classification as open space land would be limited to the land only, and therefore one acre upon which the abandoned residence is situated was removed from application review bringing the total acres under review for the Open Space Land classification to 47.04 acres. 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 (PBRS) is consistent with a staff recommendation of approval.

10. Staff noted that the land in the Balolia application is located in the Lake Whatcom Watershed, which is a Whatcom County Transfer of Development Rights (TDR) “sending area”. During this discussion Commissioners noted a typographical error on the PBRS rating sheet and staff clarified that as noted in the staff report, the site is subject to a Comprehensive Plan designation of Rural with Rural zoning establishing maximum density at one dwelling unit per five acres. Staff also noted that the applicant had pre-certified transfer of development rights on a number of contiguous parcels including one of the subject parcels, pursuant to WCC 20.89 – Density Transfer Procedure. Staff explained that although certified to authorize such a transfer, no density had yet been transferred to a “Receiving Area” (which includes all County URMX zones except Bennett Drive).

11. Staff also noted that Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species were identified on the site, along with riparian habitat associated with a fish bearing stream with a known distribution of Resident Coastal Cutthroat Trout, and that a State Candidate Species is also documented as present (Northern Goshawk) according to WDFW mapping. Staff provided Commissioners with a WDFW 2015 hand-out with additional information about status of Washington State and Federal species. Members of the public asked how staff arrives at determinations as to whether or not such species are present on any particular site. Staff indicated that in addition to other resources, staff relies on WDFW studies and maps, including WDFW Priority Habitat and Species (PHS) program information and maps. Staff noted that the applicants were proposing that classification of the land as “open space land” would enhance preservation of shorelines, preserve mature conifers and deciduous species, protect native species, and protect soils and water quality in the Lake Whatcom Watershed. Staff also noted that the one of the parcels in the application is subject to a split Rural/Conservancy Shoreline designation under the Whatcom County Shoreline Management Program on Lake Whatcom. Commissioners asked whether the three parcels of the Balolia
application could be evaluated separately. Staff indicated that the three parcels were part of one application, and that staff opinion was that had they been rated separately, that the overall public benefit rating would be the same.

12. After evaluating the application with the PBRS, staff assigned it a public benefit rating (PBR) of 65.6. Staff indicated that if the application were to be approved, the difference between its assessed ‘fair market’ value compared to its valuation on the basis of its ‘current use’ would result in an estimated tax shift of approximately $11,834.00 per year (on the basis of 2014 fair market value per acre).

13. The Balolia application included a request that the County Council waive the PBRS public access requirement. Staff noted that the Balolia application would normally have received a higher public benefit rating if the applicant had proposed a “certain degree of public access”, but even without public access proposed, the application received a PBR rating (65.6) that is consistent with a staff recommendation of approval.

14. Staff generally supported the applicants request that the PBRS requirement for public access be waived by the County Council because: the site contains Washington State Department of Fish and Wildlife Priority Habitat and Species (Resident Cutthroat Trout); and a State Candidate species (Northern Goshawk) has been documented on the site; and because of the sites’ proximity to a State and Federal Threatened Species (Marbled Murrelet) located on the adjacent shore of Lake Whatcom. In addition, pursuant to the Washington State Open Space Taxation Act, the County Council as Granting Authority has authority to approve applications subject to special conditions, and the County’s PBRS specifies that the County Council may waive the PBRS requirement of public access under certain circumstances, including the presence of a documented occurrence of a State or Federal Endangered, Threatened or Sensitive Species, or when the purpose of classification is to preserve wetlands or historical or cultural sites; and because on occasions in the past the County Council has exercised its discretion broadly when making decisions to waive public access requirements, especially when (as in this case) an owner/applicant does not reside on the premises or maintain an onsite presence, and when site conditions are such that the public may be exposed to public health and safety risks; and because in this case the site contains an abandoned residence in a state of disrepair, and finally, because the site is located adjacent to an outdoor recreational camping facility for youth (Camp Firwood), which might generate unauthorized or unmonitored ‘exploration’ of the site by youth, thereby increasing risk of potential danger to the public, and/or liability to the property owner.

15. After some discussion amongst Commissioners exploring various viewpoints, and after considering additional input from staff and the public, Planning Commissioners concluded that the benefits of public access to the site would likely outweigh potential risks to public health and safety, provided that public access to sensitive or priority wildlife habitat is reviewed by a Wildlife Biologist. Commissioners voted
unanimously to recommend that the County Council approve the entire Balolia application for Open Space Land as described in the staff report and File No. OSP2015-00001 (subject to a correction in the evaluation sheet, as noted in above Finding No. 10) and as a condition of approval requiring public access; provided that public access to sensitive or priority habitat be reviewed by a Wildlife Biologist.

16. Staff recommended approval on the second application for Open Space Land (Purviance) [OSP2015-00002] consisting of 5.59 acres of a 6.59 acre parcel located within the urban growth area reserved for City of Bellingham's future growth. This recommendation of approval 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 (PBRS) is consistent with a staff recommendation of approval.

17. Staff noted that with the exception of driveway, residence and garden area, that the Purviance land is almost completely vegetated with mature conifers and deciduous species, and native understory, providing habitat to a number of terrestrial mammals, amphibians, birds. The towering canopy shelters wildlife and regulates temperatures in a seasonal stream, and offers visually pleasing scenery to travelers on Aldrich Road. The site is also used for an offsite stormwater facility that serves adjacent commercial development, utilizing the seasonal stream bed for overflow and drainage.

18. Proposed public access to the Purviance property was discussed verbally during a site visit, and later confirmed with a public access statement and proposed rules of public conduct submitted in writing by the applicant. Public access proposed by the applicant is to make the site available to individuals or small groups for the purpose of scientific study or educational opportunities by appointment. Per the applicant there is proposed off-street parking that will accommodate up to four cars, and an open space sign could be posted as shown on the maps on file under OSP2015-00002 near the property entrance at 4431 Aldrich Road.

19. After evaluating the application with the PBRS, staff assigned it a public benefit rating (PBR) of 68.8. Staff explained that if the application were to be approved, the difference between its assessed 'fair market' value compared to its valuation on the basis of its 'current use' would result in an estimated tax shift of approximately $1,512.00 per year (on the basis of 2014 fair market value per acre).

20. Commissioners discussed how approving applications for the classification of open space land might impact the affordability of housing in that such approval would shift taxes to land upon which such affordable housing might be located. Staff noted that pursuant to the Open Space Taxation Act applications for open space land are required to be reviewed in a similar manner as a county's comprehensive land use plan, and that "Housing" is one element of the Whatcom County Comprehensive Plan. However, through their discussion,
Commissioners recognized that the existing PBRS does not contain specific criteria for considering whether or not such approvals might impact housing affordability, and therefore such consideration would not be a criterion upon which to base a recommendation at this time.

21. Commissioners also discussed future trail routes (in the preliminary design and planning stage) to be located between Aldrich Road and the Cordata area, but concluded that this particular site might not be an appropriate linkage to support that particular trail corridor as envisioned. Planning Commissioners generally concluded that the public benefit of classifying this land would be in the public interest relative to the tax shift in that it would serve to provide public access to and further protect priority Palustrine habitat. Commissioners voted unanimously to recommend that the County Council approve the Purviance application subject to the conditions recommended in the staff report and as described in File No. OSP2015-00002.

22. Staff recommended approval on the third application for Open Space Land (Bar Rental LLC) [OSP2015-00003] consisting of 4.54 +/- acres within the urban growth area reserved for City of Bellingham future growth. This recommendation of approval 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 (PBRS) is consistent with a staff recommendation of approval.

23. Staff noted that the proposal was to classify 4.54 +/- acres of a 7.89 acre parcel that is completely vegetated with a mixed deciduous forest, native understory and delineated wetlands that provides wildlife habitat and serves as a buffer between areas of human habitation and built environment. The site is contiguous to an existing commercial parking lot that serves neighboring Bellingham International Airport customers.

24. Proposed public access to the Bar Rental LLC property was discussed verbally during a site visit, and later confirmed with a public access statement and proposed rules of public conduct submitted in writing by the applicant’s Agent. The proposal is that the applicant would make the site available to individuals or small groups by appointment for the purpose of scientific study or educational opportunities by appointment. In addition the applicant proposed to construct an unpaved loop trail around the delineated wetlands subject to approval under Whatcom County Critical Areas Ordinance (WCC 16.16). The applicant proposes to make opportunities available to youth or scouting groups to develop and maintain the proposed trail, and also proposes to be available to offer information about the offsite wetland mitigation banking process that was successfully utilized in developing the commercial parking lot area on the larger parcel. Per the applicant there is dedicated off-street parking to accommodate up to two cars, and additional off-street parking would be made available by special arrangement. The required Open Space Sign was proposed to be installed adjacent to the proposed trail head accessed from the interior of the commercial parking area as shown on the maps on file under OSP2015-00002.
25. After evaluating the application with the PBRS, staff assigned it a public benefit rating (PBR) of **71.38**. Staff noted that if the application were to be approved, the difference between its assessed ‘fair market’ value compared to its valuation on the basis of its ‘current use’ would result in an estimated tax shift of approximately $3,419.00 per year (on the basis of 2014 fair market value per acre).

26. Commissioners generally concluded that the public benefit of classifying the Bar Rental LLC land would be in the public interest relative to the tax shift in that public access to the site would provide a public benefit. Commissioners voted unanimously to recommend that the County Council approve the Bar Rental LLC application subject to the conditions recommended in the staff report and as described in File No. OSP2015-00003.

**RECOMMENDATION**

Whatcom County Planning Commission recommendations to the Whatcom County Council on open space current use classification applications referenced under Master File Number OS2015-1 are listed below:

**Open Space Land (OSL)**

1. **OSP2015-00001 – Neila & Shiraz Balolia**

   **New application to classify property as Open Space Land (47.04 OSL acres)**
   **1728 Lake Whatcom Boulevard**

   Parcel A: GEO ID: 370408 382169 0000: = 19.48 Open Space Land application acres (19.48 total parcel acres)
   Parcel B: GEO ID: 370408 387072 0000: 21.2 Open Space Land application acres (21.2 total parcel acres)
   Parcel C: GEO ID: 370409 011163 0000: 6.36 Open Space Land application acres (7.36 total parcel acres)

   **PBR 65.6**

   **ESTIMATED SHIFT IN TAXES IF APPROVED: $11,834.00**

   **Whatcom County Planning Commission Recommendation:**

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

   1. Public Access Required: Provided, that public access to sensitive or priority wildlife habitat be reviewed by a Wildlife Biologist
   2. Posted Open Space Sign near the property entrance at 1728 Lake Whatcom Boulevard, visible to road users
3. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00001
4. Hold Harmless Agreement

2. OSP2015-00002 – Sara L. Purviance

New application to classify property as Open Space Land (5.59 OSL Acres)
4431 Aldrich Road

GEO ID: 380211 527492 0000: 5.59 Open Space Land application acres (6.59 total parcel acres)

PBR 68.8

ESTIMATED SHIFT IN TAXES IF APPROVED: $1,512.00

Whatcom County Planning Commission Recommendation:

Approval, subject to the following attached special conditions:

1. Public Access Required: To individuals or small groups by appointment in accordance with the owners Public Access Statement referenced File No. OSP2015-00002
2. Posted Open Space Sign near the property entrance at 4431 Aldrich Road visible to road users
4. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00002
5. Hold Harmless Agreement

1. OSP2015-00003 – Bar Rental LLC

New application to classify property as Open Space Land
3909 Bennett Drive

GEO ID: 380214 193464 0000: 4.54 +/- Open Space Land application acres; (7.89 total parcel acres)

PBR 71.38

ESTIMATED SHIFT IN TAXES IF APPROVED: $3,419.00

Approval, subject to the following attached special conditions:
1. Public Access Required: To individuals or small groups by appointment in accordance with the owners Public Access Statement referenced File No. OSP2015-00003
2. Posted Open Space Sign at 3909 Bennett Drive adjacent to the proposed trail head accessed from the interior of the commercial parking area as shown on the maps on file under OSP2015-00002
4. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00003
5. Hold Harmless Agreement

WHATCOM COUNTY PLANNING COMMISSION

Natalie McClendon, Chair

Becky Boxx, Secretary

7/9/15 7/9/15

Date Date

Commissioners present at the June 25, 2015 meeting when Commissioners voted unanimously to approve the above listed recommendations on three applications for Open Space Land that are referenced under Master File No. OS2015-1: Michael Knapp; Nicole Oliver; Mary Beth Teigrobe; Kelvin Barton; Natalie McClendon

Commissioners Absent: David Hunter; Gary Honcoop; Ben Elenbaas; Gerald Vekved

Regular Meeting

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

Roll Call
Present: Natalie McClendon, Nicole Oliver, Michael Knapp, Mary Beth Teigrob, Kelvin
Barton
Absent: David Hunter, Ben Elenbaas, Jerry Vekved, Gary Honcoop

Staff Present: Mark Personius, Gary Davis, Erin Osborn, Becky Boxx

Department Update

Mark updated the commission on their upcoming schedule.

Open Session for Public Comment

Jack Petree, Whatcom County: Adopted into the County Comprehensive Plan and all of the
city plans is the County-Wide Planning Policies (CWPPs). According to the Growth
Management Act (GMA) the CWPPs are the framework upon which cities and counties
adopt their comprehensive plans and make them consistent with each other. The CWPPs
have to be considered as the Planning Commission is doing their work. It is troubling that
most of the cities and county plan almost completely ignore the CWPPs. He would bet that
most decision makers in the county have not read them. He recommended the Planning
Commissioners read them. They should look for words like shall or must. Policies that
contain these words impose an obligation to do what they are told they shall or must do.
A comprehensive plan violating this is easy to challenge as being out of compliance with
GMA. It is time to start paying attention to the CWPPs.

Commissioner Comments

There were no commissioner comments.

Approval of Minutes

May 14, 2015: Commissioner Teigrob moved to approve as written. Commissioner Oliver
seconded. The motion carried.

May 28, 2015: Commissioner Knapp moved to approve as written. Commission Teigrob
seconded. The motion carried.

Work Session

2015 Open Space Applications

Erin Osborn presented background information and the applications.

The Open Space Taxation Act is a state law that was passed in 1970. This state law gives
counties authority to assess land on the basis of its current use rather than what is
considered highest and best use in economic terms. This is not an exemption program; it is a program which actually changes the assessed value of the property.

The Open Space Land classification is evaluated using the Public Benefit Rating System (PBRS). In this evaluation process priority resources are identified and points are then given based on the value of the public benefit in preserving those lands.

The PBRS has not changed substantially since 1989. Two years ago the County Council made a suggestion that the County Executive direct the appropriate staff to consider doing a review of the program. Based on department priorities, to date this has not been done. There have been concerns raised regarding the adequacy of the PBRS. However, until the system is changed, when applications are rejected, but similar to an existing approved parcel, there has to be a reason given, and a finding made as to why it was rejected. It can’t be for an arbitrary reason.

The role of the Planning Commission in reviewing the applications is to consider the tax shift and loss of revenue that will occur if the applications are to be approved, and make recommendations to the County Council. The amount of the tax shift to individual property owners is difficult to determine for various reasons, but Commissioners are being provided with information about the overall tax shift that would result from approving the application relative to the amenities being preserved as measured by the Public Benefit Rating System.

Commissioner Knapp asked if housing affordability comes into play regarding open space. Have any studies been done?

Ms. Osborn stated the program applies to land only without improvements, in most instances. However, the taxes would shift to all other lands, including land upon which homes are situated, in the taxing district. She also had discussions with other staff members regarding land capacity. This program can have an impact on that.

A map was shown with land in the open space applications. There are approximately 100 sites and 2,000 acres preserved in open space land classification and its sub-classification farm and agricultural consideration land.

A map was shown giving an overview of all of the property tax reduction programs in the County, and another map was shown identifying the three applications.

Ms. Osborn indicated that she sent information on these applications to the City of Bellingham, but so far she had not heard from them.

Shiraz Balolia application: OSP2015-00001
Parcel #’s 370408-382169, 370408-387072, 370409-011163
Location: 1728 Lake Whatcom Boulevard
Total Acreage: 47.04
PBRS Score: 65.6, Recommendation of Approval
Estimated tax reduction: $11,834.00
Zoning: corrected from URMX to R5A

The score on this application was reduced because the applicant is requesting there be no
public access. Public access is a major part of the PBRS. It can be waived for reasons such
as a documented case of wetlands, cultural resources, historical sites, protected species,
etc. On this site there are no state or federal threatened, endangered or sensitive species.
It is abutting the approximately 8,000 acres of reconveyance land. So in a sense it does
create a linkage to priority wildlife habitat. One of the parcels has a State Candidate
species, the Northern Goshawk. Staff supports approval of the applicant’s request that the
Council waive public access because of the proximity to the reconveyance land which has
priority and state sensitive species; there is no onsite residence; there is an abandoned
house on the site; and the property is gated and next to Camp Firwood. There may be
wetlands associated with a fish bearing stream onsite.

TDRs have been certified, but not transferred, on some of the parcels.

Pictures of the property were shown which shows a well vegetated area with mature
trees. Ms. Osborn noted that State Priority Habitat and Species were identified, including
Resident Cutthroat Trout in the stream that bisects one of the parcels.

Commissioner Barton asked if all three parcels have to be treated the same.

Ms. Osborn stated no. The applications can be approved in full or in part. Generally,
because it was one application, the parcels were considered as a whole in doing the
evaluation. Parcels A and B create a corridor which she indicated would best kept
together for the purpose of evaluation.

**Commissioner Oliver moved to recommend approval. Commissioner Knapp seconded.**

Commissioner Teigrob stated she had concerns regarding no public access. The applicant
could accomplish their goal of paying less taxes by transferring their development rights,
then they wouldn’t have to worry about people coming onto the property. One of the
benefits of open space is being able to go onto the property. The benefit seems to be
mostly for the applicant not the public.

Commissioner Barton is not opposed to the application but they are getting a substantial
economic benefit and the public is not getting any benefit from public access.

Ms. Osborn suggested the public access be subject to review or consultation with a wildlife
biologist. The applicant’s agent indicated concern about the liability of the public coming
onto their property.

Commissioner Teigrob stated that is part of what goes with having their property in open
space.
Commissioner Knapp indicated that he shared both of the views expressed by Commissioner Barton and Commissioner Teigrob.

Greg Brown, Whatcom County: This parcel creates a linkage between the reconveyance land and the Camp Firwood. Why would they not want to create a linkage between the two? One of the conditions should be some sort of public access.

Dannon Traxler, Whatcom County: Doesn’t the statute require public access unless there are wetland restrictions?

Ms. Osborn stated it is a policy of the County’s Open Space Policy and Criteria and Public Benefit Rating System to require a certain degree of public access. The Open Space Taxation Act does not require it. The state law gives counties authority to adopt a PBRS and open space polices in which they identify their local priorities and rules. The council has discretion to waive public access, and they have waived public access in certain instances.

Ms. Traxler stated if they are going to limit public access they should have to do some sort of study showing it is priority habitat or there are public health and safety hazards. As far as liability they will be protected by the recreational use statute.

Max Perry, Whatcom County: There is a set amount of property tax in the county, so when you reduce someone’s taxes they have to be increased by others. Keep this in mind.

Commissioner Teigrob made an amendment to the motion to request the County Council look at the issue of public access and possible denial of that waiver. Commissioner Knapp seconded. The motion was withdrawn.

Commissioner Knapp stated his concerns regarding the possibility of wetlands. Maybe those could be identified and perhaps have signage noting the wetlands. That could have some educational value.

Ms. Osborn stated she had conversations with the applicant’s representatives and gave them a lot of different ideas about how public access is often managed. They did not seem to be interested in any of them.

Commissioner Oliver made an amendment to the motion to recommend approval of the application and deny the applicants request to waive public access. Commissioner Knapp seconded. The vote on the motion carried.

Commissioner Barton suggested parcel B be treated differently because that is where the stream is. He suggested it be examined by a wildlife biologist to determine if there should be public access.

Ms. Osborn suggested the motion read: Should County Council require public access that such public access be subject to review by a wildlife biologist for suitability. This would be required on all three parcels.
The commission recommends that the County Council approve the application and deny the applicants request to waive public access. Should the council require public access it should be subject to the review of a wildlife biologist.

Commissioner Knapp had concern with that because there could be a blanket denial of access. Only special areas on the sites should be examined for denial of access.

Commissioner Oliver made an amendment to the motion to read: The Whatcom County Planning Commission recommends that the County Council approve the entire Balolia application for Open Space Land requiring public access; Provided that public access to sensitive or priority wildlife habitat be reviewed by a wildlife biologist.

Commissioner Knapp seconded. The vote on the amendment carried.

Roll Call Vote: Ayes – Teigrob, Barton, Oliver, Knapp, McClendon; Nays – 0; Abstain – 0; Absent – Honcoop, Hunter, Vekved, Elenbaas. The motion carried.

Sara Purviance application: OSP2015-00002

 Parcel # 380211-527492
 Location: 4431 Aldrich Road
 Total Acreage: 5.59 acres
 PBRS Score: 68.8, Recommendation of Approval
 Estimated tax reduction: $1,512.00
 Zoning: URMX

The property is adjacent to the City of Bellingham. The property is bisected by a seasonal stream with a historic fish population. There are no fish now. It is considered a priority habitat species area. There are no state threatened, endangered or sensitive species on the site. It has a mature forested canopy with native undergrowth and a variety of wildlife. The site is across the street from a public school. The owner is willing to allow public access by appointment. There is room for off-street parking. An adjacent parcel is being used for off-site stormwater collection which is then dispersed into the seasonal stream.

Commissioner Knapp asked how many development rights there would be if sewer and water were available.

Ms. Osborn stated she was not sure, but as a ball park estimate, she indicated that there would be approximately eight units, referring to residential density per acre, generally it would be "high density", and after referring to her report indicated that without water, sewer, stormwater collection and detention facilities, future residential density would be limited to 1 dwelling unit per 10 acres.

Commissioner McClendon asked if there were any public parks in the area.
Ms. Purviance stated there is a trail being built from the school to the Cordata area.

**Commissioner Oliver moved to recommend approval. Commissioner Knapp seconded.**

Commissioner Knapp stated it is increasingly getting more difficult to develop in UGAs. The cost is skyrocketing. We, as taxpayers, pay the price for that. The value of this parcel does meet the criteria but it does not address that issue. Also can this parcel be someway included in the trail that is planned?

Ms. Osborn stated the Council can imposes conditions on approval.

Commissioners discussed that there is a street that could be in the way of providing a direct link to future trails planned elsewhere.

Carole Perry, Whatcom County: What is the process in determining what species are on this property?

Ms. Osborn stated what she relies on is anecdotal reports from applicant and other studies done by either the county, Washington Department of Fish and Wildlife or other agencies. She then does a site visit to review the basic habitat with the Public Benefit Rating System.

Max Perry, Whatcom County: In the event that Bellingham becomes enlightened and extends sewer to this area what happens to the open space status if the owner wants to develop?

Ms. Osborn stated that when the land ceases to be devoted to the purposes of classification it would have to be removed with back taxes paid.

Dannon Traxler, Whatcom County: Stated that in regards to all applications staff might want to build into their recommendations that all costs of any evaluations by biologists be paid by the applicant.

Commissioner Knapp stated his concerns regarding taking property out of the UGA land supply. Is there some greater benefit?

Ms. Osborn stated that staff’s role is to review the application with the PBRS in order to determine whether or not the features of site meet the criteria. Regarding the bigger picture, the Critical Areas Ordinance does not say development can’t occur outside of buffers, etc., so it’s a matter preserving as much of that riparian corridor as possible, and that would be the benefit.

Commissioner Oliver agreed with Commissioner Knapp’s comments but they are bound to evaluate the applications based on the system in place.

**Vote on the motion for approval:**
Roll Call Vote: Ayes – Teigrob, Barton, Oliver, Knapp, McClendon; Nays – 0; Abstain – 0; Absent - Honcoop, Hunter, Vekved, Elenbaas. The motion carried.

Bar Rental LLC: OSP2015-00003
Parcel # 380214-193464
Location: 3909 Bennett Drive
Total Acreage: 4.54+ acres
PBRS Score: 71.38, Recommendation of Approval
Estimated tax reduction: $3,419.00
Zoning: LII/GI

Ms. Osborn indicated that the property is located in the Urban Growth Area reserved for the future growth of the City of Bellingham, subject to split zoning, and did consult with Gary Davis, PDS Long Range Planning regarding land capacity. Mr. Davis stated that in the land capacity analysis (LCA) done by the county they found that the western portion has already been removed from the LCA because of wetlands. Adding this to open space would not have any effect on the LCA.

Ms. Osborn stated the applicant is proposing a trail outside the buffers of the delineated wetlands, subject to approval under the Critical Areas Ordinance. Ms. Osborn also stated that the applicant indicated that it would make opportunities available to youth to develop and maintain the proposed trail, and to share information with the public about the off-site wetland mitigation process that was utilized by the applicant in developing the commercial parking lot on the site. Signage indicating the trail area would be placed in the area near the proposed trail head. Access to the trail would be provided through the parking lot to the east of the trail area. Access would be by appointment. No priority habitat or species were identified. It is a young forest area with native habitat.

Commissioner Knapp wondered how people will find the area. It is completely surrounded by industrial land. Does it really fit? There has to be benefit.

Ms. Osborn stated it does provide habitat for native and migrating species.

Commissioner Barton moved to recommend approval. Commissioner Oliver seconded.

Commissioner Oliver asked if the signage could be placed in a more obvious area so the locals would know about it.

Commissioner Barton stated the locals will probably figure out there is a trail there pretty quickly.

Vote on the motion for approval:

Roll Call Vote: Ayes – Teigrob, Barton, Oliver, Knapp, McClendon; Nays – 0; Abstain – 0; Absent - Honcoop, Hunter, Vekved, Elenbaas. The motion carried.
MEMORANDUM

TO: Honorable Members of the Whatcom County Planning Commission

THROUGH: Mark Personius, Assistant Director

FROM: Erin Osborn, Planner

DATE: June 16, 2015

SUBJECT: 2015 Open Space Current Use Applications

Attached is a packet summarizing staff review and recommendations on three applications for open space current use taxation, that are presented for your consideration, this year.

Staff will present the report along with a power point slide show at your upcoming June 25th 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 2-9 of the report, with background information on the Open Space Current Use Program presented on Pages 10-15. Also attached are several documents 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 25th meeting.

Note: I encourage members of the Planning Commission to please contact me in advance of your June 25th meeting, if there are questions about the individual applications or the Open Space Current Use Program.

Thank you.
WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT

STAFF RECOMMENDATIONS TO THE WHATCOM COUNTY PLANNING
COMMISSION ON THREE APPLICATIONS TO CLASSIFY LAND AS "OPEN
SPACE LAND" AS AUTHORIZED UNDER CHAPTER 84.34 RCW &
WHATCOM COUNTY ORDINANCE NO. 1995-040

MASTER FILE NUMBER OS2015-1

Introduction:

This report summarizes staff findings and recommendations on a total of three applications for classification of land as "Open Space Land" as authorized under the Open Space Taxation Act, Chapter 84.34 RCW, and Whatcom County Ordinance No. 1995-040.

This report is prepared for the June 25, 2015 Whatcom County Planning Commission meeting where staff will present these applications and ask that the Planning Commission consider them and make recommendations as to 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 acting as granting authority, for its review in making a final decision on each application.

The report is composed of five main parts:

1. Summary of three applications to classify land pursuant to applicable state and local regulations;
2. Application review, staff findings of fact, proposed conclusions, and staff recommendations;
3. Background information on the Open Space Taxation Act;
4. Role of Staff, Planning Commission, and County Council in application review, approval or denial;
I. Applications Summary

Open Space Land (OSL)

1. OSP2015-00001 – Neila & Shiraz Balolia

New application to classify property as Open Space Land (47.04 OSL acres)
1728 Lake Whatcom Boulevard

Parcel A: GEO ID: 370408 382169 0000: = 19.48 Open Space Land application acres (19.48 total parcel acres)
Parcel B: GEO ID: 370408 387072 0000: 21.2 Open Space Land application acres (21.2 total parcel acres)
Parcel C: GEO ID: 370409 011163 0000: 6.36 Open Space Land application acres (7.36 total parcel acres)

PBR 65.6
ESTIMATED SHIFT IN TAXES IF APPROVED: $11,834.00

2. OSP2015-00002 – Sara L. Purviance

New application to classify property as Open Space Land (5.59 OSL Acres)
4431 Aldrich Road

GEO ID: 380211 527492 0000: 5.59 Open Space Land application acres (6.59 total parcel acres)

PBR 68.8
ESTIMATED SHIFT IN TAXES IF APPROVED: $1,512.00

3. OSP2015-00003 – Bar Rental LLC

New application to classify property as Open Space Land (4.54 +/- OSL Acres)
3909 Bennett Drive

GEO ID: 380214 193464 0000: 4.54 +/- Open Space Land application acres; (7.89 total parcel acres)

PBR 71.38
ESTIMATED SHIFT IN TAXES IF APPROVED: $3,419.00

II. Application Review & Staff Findings

Staff findings referenced under Master File Number OS2015-1 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 comments and recommendations will be presented at the June 25, 2015 Planning Commission Meeting, Work Session.

Open Space Land (OSL) Applications for Open Space 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. A Public Benefit Rating or PBR (evaluation score) is calculated based on overall aggregate points assigned after review with the PBRS, based on a formula developed by the County Assessor. Applications must receive a Public Benefit Rating of at least 45 points for a staff recommendation of approval.

Open Space Land (OSL)

1. OSP2015-00001 – Neila & Shiraz Balolia

New application to classify property as Open Space Land

1728 Lake Whatcom Boulevard

Parcel A: GEO ID: 370408 382169 0000: = 19.48 Open Space Land application acres (19.48 total parcel acres)
Parcel B: GEO ID: 370408 387072 0000: 21.2 Open Space Land application acres (21.2 total parcel acres)
Parcel C: GEO ID: 370409 011163 0000: 6.36 Open Space Land application acres (7.36 total parcel acres)

PBR 65.6
ESTIMATED SHIFT IN TAXES IF APPROVED: $11,834.00

Discussion: On November 19, 2014, Planning & Development Services Department received an application from property owners Shiraz and Neila Balolia to classify approximately 48.04 acres as Open Space Land. This land is currently assessed at true and fair value (market value).

The Balolia application consisting of three parcels: Parcel A, Parcel B, and Parcel C as shown on the attached maps is located within the Lake Whatcom Watershed and is subject to a Rural designation in the Comprehensive Plan, and 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 3909 Lake Whatcom Boulevard, near Lake Louise, just east of the Sudden Valley subdivision on the Southern shore of Lake Whatcom. The property is accessible directly off of Lake
Whatcom Boulevard via a private gated driveway located just south of neighboring Camp Firwood.

The proposal narrative submitted with the application indicates that the purpose of classification is for preservation of the land in its natural state that will serve to: enhance scenic views of the forest from Lake Whatcom Boulevard and from the Lake Whatcom shoreline; to protect and preserve streams and associated wetlands; protect shorelines, and critical wildlife habitat; and protect water quality in Lake Whatcom.

The owners have applied for and have received certification to transfer density in accordance with Whatcom County Code, Chapter 20.89 – Density Transfer, otherwise known as the Transfer of Development Rights program (TDR). This affects Parcel C that together with other adjacent land comprise what the County Planning Department has determined is a “lot of record” [Case No. EXE2010-00085]. This certifies that the lot of record which Parcel C is partially composed allows a transfer of a potential 6 development rights, with 5 available for transfer because an existing residence (albeit abandoned) constitutes 1 development right. It should be noted however, the abandoned residence on Parcel C may be deconstructed at some point in the future.

It is noted that the total open space land application acreage (48.04 acres) includes the land that is occupied by the former residence referred to above; however, the open space classification applies to land only, and therefore approval may not include structures, and so the land upon which the abandoned residence sits has been administratively segregated by staff using the typical 1 acre commonly reserved for a homesite, with a total of 47.04 acres considered in this application for classification as open space land. Should the owners obtain a demolition permit, and successfully deconstruct the former residence, then at such time they may apply to the County legislative authority to classify the land upon which the ‘abandoned’ homesite now occupies, and subject to approval add it to the total acres classified, subject to a new agreement (Open Space Taxation Agreement) with Whatcom County.

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 subject to the open space classification and protection from future development this may serve to protect soils, prevent erosion, and help protect the water quality in Lake Whatcom. The land is also adjacent to a Lookout Mountain Habitat Conservation Area where habitat for State and Federal listed Species, Habitats and Areas Associated with a State Priority Species, and Habitats and Species of Local Importance have been identified.

The applicant has requested that the County Council waive public access. In accordance with Whatcom County Open Space Policy and Criteria and Public Benefit Rating System (PBRS) public access is typically required unless the
purpose of the classification is to protect wetlands, endangered species, or cultural resources. The owners have expressed an interest in posting signage that communicates to the public the intent of preservation, and have submitted a preliminary signage design that as proposed would be in addition to the signage that Whatcom County requires. Proposed posted educational signage along Lake Whatcom Boulevard and along the Lake Whatcom Shoreline would include reference to:

The Open Space Classification; the importance of conserving acreage in its natural state; the value of forests, wetlands and the Lake Whatcom Watershed; a sample listing of the area's wildlife; and finally, it would extend a call to the general public to become good "Stewards of the Lake".

Staff supports the applicant's request for a waiver of the public access requirement normally required for the following reasons:

1. The site is gated, the owner does not live on site, the site is unmonitored, and the site is generally unimproved;
2. Public access to rough terrain, lack of developed trails, and potentially hazardous conditions i.e. the abandoned former residence on Parcel C, could pose potential risk to the public, and/or liability to the property owner;
3. The site borders property owned by Camp Firwood a summer camp utilized by youth for recreational purposes, and to allow public access to the site might encourage unauthorized exploration by youth, and potentially increase risk of danger to the public and/or liability to the property owner;
4. The site is adjacent to Habitat Conservation Areas (HCA 2,3,10) HCA 2: State and Federal listed Species; HCA 3: Habitats and Areas Associated with a State Priority Species; and HCA 10 – Habitats and Species of Local Importance.

After evaluating this application with the Public Benefit Rating System, staff has assigned it a Public Benefit Rating (PBR) of 65.6 (for details, please see attached evaluation worksheet sheet OSP2015-00001). The hypothetical tax shift if approved is $11,834.00. Information about the tax shift is listed for consideration by the Planning Commission and County Council, so that they may consider the overall shift in taxes relative to the merits of the application as measured with the public benefit rating system. Note: More information about the "tax shift" is provided in an attachment to this report.

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 Balolia application for Open Space Land classification be approved subject to conditions listed below.
Staff Recommendation:

Approval, subject to the following attached special conditions:

1. Posted Open Space Sign near the property entrance at 1728 Lake Whatcom Boulevard, visible to road users.
2. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00001.
3. Hold Harmless Agreement

2. OSP2015-00002 – Sara L. Purviance

New application to classify property as Open Space Land
4431 Aldrich Road

GEO ID: 380211 527492 0000: 5.59 Open Space Land application acres (6.69 total parcel acres)

PBR 68.8
ESTIMATED SHIFT IN TAXES IF APPROVED: $1,512.00

Discussion: On December 30, 2015, Planning & Development Services Department received an application from property owner Sara Purviance to classify approximately 5.59 acres of a 6.59 acre parcel as Open Space Land as shown on the attached maps (OSP2015-00002). The land is currently assessed at true and fair value (market value).

The property is located at 4431 Aldrich Road just east of Northwest Drive, east of Ferndale, and just west of the Bellingham city limits. The property is accessible by a private driveway, directly off of Aldrich Road.

The Purviance property is designated Urban Growth Area in the Whatcom County Comprehensive Plan, and is reserved for City of Bellingham future growth, and is subject to zoning regulations located in Title 20, Chapter 20.24 – Urban Residential Mixed (URMX) District. At this time the site is fully developed with an existing single family residence and attached garage. The site is also utilized as part of a stormwater facility for adjacent commercial development, with drainage diverted into an underground catch basin and overflow routed to an existing seasonal stream. Potential future residential density is based on availability of public water and public sewer, and without an adopted plan for annexation, maximum gross density on the site is limited to 1 dwelling unit per 10 acres.

With the exception of the driveway, residence, and garden area the site is almost completely vegetated with mature conifers, deciduous species and native understory which lend to the site a park like atmosphere. The
towering canopy shades a seasonal stream and provides a buffer from traffic noise, and provides visually pleasing scenery to travelers heading north-south on Aldrich Road. The site is adjacent to a commercial use, and is across from a public school.

Proposed public access was discussed verbally between the applicant and staff, and proposed rules of public access indicate that access to the site as proposed is by appointment only. Subject to the Open Space Land classification, the site would be available to individuals or small groups for scientific study, or educational opportunities by appointment. There is ample off street parking, with room for up 3-4 passenger vehicles, and an open space sign may be posted near the property entrance at Aldrich Road.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 68.8 (for details, please see attached evaluation worksheet sheet OSP2015-00002). The hypothetical tax shift if approved is $1,512.00. Information about the tax shift is listed for consideration by the Planning Commission and County Council, so that they may consider the overall shift in taxes relative to the merits of the application as measured with the public benefit rating system. Note: More information about the “tax shift” is provided in an attachment to this report.

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 Purviance 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 individuals or small groups by appointment in accordance with the owners Public Access Statement referenced File No. OSP2015-00002.
2. Posted Open Space Sign near the property entrance at 4431 Aldrich Road
4. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00002
5. Hold Harmless Agreement

3. OSP2015-00003 – Bar Rental LLC

New application to classify property as Open Space Land
3909 Bennett Drive

GEO ID: 380214 193464 0000: 4.54 +/- Open Space Land application acres; (7.89 total parcel acres)

PBR 71.38
ESTIMATED SHIFT IN TAXES IF APPROVED: $3,419.00

Discussion: On December 30, 2015, Planning & Development Services Department received an application from property owner Bar Rental LLC to classify approximately 4.54 +/- acres of a 7.89 acre parcel as Open Space Land as shown on the attached maps (OSP2015-00003). The land is currently assessed at true and fair value (market value).

The property is located at 3909 Bennett Drive just west of Interstate 5 where it intersects with Bakerview Drive and Airport Drive, and is south of Ferndale, and just west of Bellingham city limits. The property is accessible by a commercial driveway directly off of Bennett Drive.

The Bar Rental LLC property is designated Urban Growth Area in the Whatcom County Comprehensive Plan, and is reserved for City of Bellingham future growth, and is subject to 'split zoning'. Zoning regulations that apply to development of the subject parcel are located in Title 20, Chapter 20.25 – Gateway Industrial (GI) District, and in Title 20, Chapter 20.26 – Light Impact Industrial (LII) District.

Site development includes a commercial parking area on the eastern portion of the site, comprising approximately 3.35 acres, and the remaining westerly acres are undeveloped. To clarify it is only the 4.54+/- undeveloped wooded acres that are the subject of this application. The site is also utilized as part of a stormwater facility for the commercial parking lot with drainage diverted into an above ground ‘raingarden’ type of stormwater facility.

The 4.54 +/- acres that are the subject of application are completely vegetated with mixed deciduous forest and native understory and Category II, III and IV wetlands which have been delineated on the site.

The proposal narrative submitted with the application indicates that the purpose of classification is to preserve the land in its natural state, retain naturally regenerated plant species, protect soil resources, and preserve wetlands that provide water surface storage and filtration, protect wildlife and wildlife habitat, and offer educational, recreational opportunities by appointment.

Proposed public access was discussed verbally between the applicant’s agent and staff, and proposed rules of public access indicate that access to the site as proposed is by appointment only. Subject to the Open Space Land
classification, the site would be made available to individuals or small groups for scientific study, or educational opportunities by appointment. The applicant proposes to offer opportunities to youth or scouting groups to develop and maintain a primitive trail on the site, in accordance with the Whatcom County Critical Areas Ordinance (WCC 16.16). The applicant also proposes to offer information about the offsite wetland mitigation banking process that was successfully utilized as part of developing the commercial parking lot on the eastern portion of the subject parcel.

There is ample off street parking, with designated parking for up 2 passenger vehicles, with additional parking by appointment or special arrangement, and an open space sign may be posted at the point of proposed public access as shown on the attached maps.

After evaluating this application with the Public Benefit Rating System, staff assigned it a Public Benefit Rating (PBR) of 71.38 (for details, please see attached evaluation worksheet sheet OSP2015-00002). The hypothetical tax shift if approved is $3,419.00. Information about the tax shift is listed for consideration by the Planning Commission and County Council, so that they may consider the overall shift in taxes relative to the merits of the application as measured with the public benefit rating system. Note: More information about the “tax shift” is provided in an attachment to this report.

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 Bar Rental LLC 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 individuals or small groups by appointment in accordance with the owners Public Access Statement referenced File No. OSP2015-00003
2. Posted Open Space Sign near the property entrance at 3909 Bennett Drive
4. All uses of the land must be compatible with the purposes of the Open Space Land classification as approved and as described in File No. OSP2015-00003
5. Hold Harmless Agreement
III. 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 in the state 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 under the open space current use program receive a significant reduction in assessed value (tax reduction); thereby providing a financial incentive to property owners to voluntarily conserve and preserve open space lands as defined in state law and further defined by county ordinance.

Classifications

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

1. **Open Space Land** [RCW 84.34.020(1)]
   - Farm and Agricultural Conservation Land

2. **Farm and Agricultural Land** [RCW 84.34.020(2)]

3. **Timber Land** [RCW 84.34.020(3)] (Note: Whatcom County terminated its Timber Land program under Whatcom County Ordinance No. 2014-055. As a result of this action, all lands formally classified as timber land became Designated Forest Land, a program administered by the County Assessor in accordance with RCW 84.33.)

In accordance with Whatcom County Code, Title 3, Chapter 3.28, Planning & Development Services Department is charged with administration of Open Space Land and its sub-classification Farm and Agricultural Conservation 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. 2 above). Staff from 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 and Farm and Agricultural Conservation Land are received by Planning & Development Services Department.
IV. Application Processing - 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 the jurisdiction of *unincorporated* Whatcom County. Please note that 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. The Planning Commission in turn makes 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 granting authority on applications in an incorporated area is composed of the legislative authorities of the city and county in which the application is located, the granting authority may meet together as one body, or by taking separate action. To approve an application when meeting separately, actions taken by each jurisdiction must be identical.

Upon approval or denial, and upon successful execution of an open space taxation agreement between the county and the applicant/owner, the county assessor is notified, who then makes adjustments on the basis of the approved current use value of the parcel, and notifies the owner of the new 'official value'.

As discussed earlier in this report, the three subject applications are to classify land that is currently assessed at market value as Open Space Land. Applications for Open Space Land are evaluated with the Whatcom County Space Policy and Criteria and Public Benefit Rating System, 1995 (PBRS). A copy of 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 resource being conserved or preserved as measured
with the Public Benefit Rating System. This important distinction helps define 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.

Public Hearing

Prior to issuing a decision on an application for open space land, the granting authority is required to hold a public hearing. In past years, public hearings were typically held before the Planning Commission.Recently due to Planning Commission schedule devoted to Growth Management land use planning, a decision has been made at the staff level to change the venue of public hearings on Open Space applications previously held before the Planning Commission, now held before the County Council 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 Whatcom County Council, Clerk of the Council, who schedules a public hearing on the subject applications. This gives the County Council an opportunity to hear from staff, receive Planning Commission recommendations, and also hear from the Public directly, as they deliberate and make decisions on each application.

V. 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, then amended in 1989 by resolution, and adopted by ordinance in 1995 (WC Ord. 1995-040).

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, as measured with the Public Benefit Rating System. Generally, resources of importance identified in the PBRS include lands that preserve, protect, conserve or enhance farmland, streams, 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, cultural resources, 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.

Although the open space current use program is a State mandate and applies statewide, not all counties have adopted a Public Benefit Rating System. The purpose of the Public Benefit Rating System is to assist the granting 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. 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, and a PBRS may help to ensure uniformity and consistency when the PBRS is applied as a tool to determine reduction in market value.

Local priority resources that have been identified as providing public benefit if conserved, preserved, protected and enhanced, along with 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, amended in 1989 by resolution, and then later revised and adopted by ordinance in 1995 (WC Ord. 95-040). The last revision to the PBRS in 1995 added new criteria for evaluating applications in accordance with amendments to open space taxation act in 1993. The PBRS update in 1995 added a new sub-classification of open space land, farm and agricultural conservation land and removed timber land from the Public Benefit Rating System; 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 that the PBRS appears 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, staff has also included "estimated tax shift if approved" at the Public Benefit Rating assigned by staff in the discussion on each individual application for open space land or farm and agricultural conservation land.

*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 individual applications referenced in this report. This "estimated tax shift" is based on an applied consolidated levy rate (total tax rate) per every one thousand dollars of assessed property value. Although parcel valuation information is based on
information provided by the Assessor’s Office, it is provided here as a reference to assist decision makers with an understanding of the potential tax shift; however, 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 individual applications referenced in this report are approved.

ATTACHMENTS


Report Prepared for the Whatcom County Planning Commission by:

Erin Osborn, Planner
Whatcom County Property Tax Reduction Programs
RCW 84.33; RCW 84.34

- Farm & Agricultural Land
- Open Space Land
- Designated Forest Land
- Farm & Agricultural Conservation Land
Open Space Land
Public Benefit Rating System-Evaluation Form

File # OSP2015-00001

<table>
<thead>
<tr>
<th>Property Owner(s)</th>
<th>Classification: Open Space Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shiraz &amp; Neila Balolia</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Status: New Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>PO Box 2069</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City: Bellingham</th>
<th>Assessor's Parcel No.(s): Parcel/OSL Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>State: WA Zip: 98229</td>
<td>370408 382169 0000 Parcel A: 19.48/ 19.48</td>
</tr>
<tr>
<td></td>
<td>370408 387072 0000 Parcel B: 21.2/21.2</td>
</tr>
<tr>
<td>Site Address:</td>
<td>370409 011163 0000 Parcel C: 7.36/6.36</td>
</tr>
<tr>
<td>1728 Lake Whatcom Blvd.</td>
<td>Total OSL Acres = 47.04</td>
</tr>
<tr>
<td>Subarea: Lake Whatcom</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comprehensive Plan Designation</th>
<th>Parcel Acre(s): Total 48.04</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural (R)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
<th>Open Space Land Application Acre(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential/Forest/Vacant</td>
<td>Eligible Acres* 47.04+/-</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zoning Designation:</th>
<th>Urban Residential Mixed (URMX)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural 1 Dwelling Unit per 5 Acres (R5A)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Soil/Type Capabilities:</th>
<th>Shorelines: Conservancy/Rural</th>
</tr>
</thead>
<tbody>
<tr>
<td># 4 Andic Xerochrepts – Rock outcrop complex, 60-90% slopes</td>
<td></td>
</tr>
<tr>
<td># 109 Nati loam, 15-30% slopes</td>
<td></td>
</tr>
<tr>
<td># 110 Nati silt loam, 30-60% slopes</td>
<td></td>
</tr>
<tr>
<td># 156 Squalicum gravelly loam, 5-15% slopes</td>
<td></td>
</tr>
<tr>
<td># 157 Squalicum gravelly loam, 15-30% slopes</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Woodland and vegetated understory, mostly sloping terrain with steep sections especially at shoreline in some places;</td>
<td></td>
</tr>
<tr>
<td>*Classification of land as Open Space Land applies to land only; there is approximately 1 acre of land upon which an abandoned homesite is situated, and this acre is administratively removed from this review.</td>
<td></td>
</tr>
<tr>
<td><strong>Conserves or Enhances Natural, Cultural or Scenic Resources:</strong></td>
<td>Score</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Conserves naturally vegetated 47.04 acres enhancing scenic beauty of Lake Whatcom shoreline, uplands as viewed from County road, Lake and neighboring properties; Parcel acreage will not be further developed subject to classification as Open Space Land.</td>
<td>10</td>
</tr>
<tr>
<td><strong>Protect Streams, Stream Corridors, Wetlands, Shorelines and Aquifers:</strong></td>
<td>10</td>
</tr>
<tr>
<td>Vegetated site preserves hydrologic processes, controls stormwater run-off, and serves to prevent erosion, protecting Lake Whatcom. Portions of the site are traversed by a year round fish bearing stream. Portions are subject to W.C SMP Conservancy/Rural Shoreline designation.</td>
<td><strong>Protects Soil, Unique or Critical Wildlife, Native Plant Habitat:</strong></td>
</tr>
<tr>
<td>Preserves coniferous &amp; deciduous tree canopy, native understory plants/shrubs along moderately and steep sloped terrain, protects banks of permanent stream; provides cover and forage for a variety of terrestrial species and birds, and protects Lake Whatcom.</td>
<td><strong>Promotes Conservation Principles by Example/Offers Educational Opportunities:</strong></td>
</tr>
<tr>
<td><strong>Enhances Value of Abutting Parks, Forests, Wildlife Preserves, or other Open Spaces:</strong></td>
<td>8</td>
</tr>
<tr>
<td>Preservation of natural areas enhances ecosystem diversity and preserves linkages between adjacent Lookout Mountain Habitat Conservation Area Urban Natural Open Space.</td>
<td><strong>Enhances Recreation Opportunities:</strong></td>
</tr>
<tr>
<td>Applicants request that public access be waived to protect critical wildlife habitat, and because unmonitored public access with steep slopes, embankments, and deteriorating structures on site may pose risk of danger to the public.</td>
<td><strong>Preserves Historic and Archeological Sites</strong></td>
</tr>
<tr>
<td>None.</td>
<td><strong>Discretionary Value</strong></td>
</tr>
</tbody>
</table>

**Total** | **41** | **70** | **Total** | **60%** | **100%** |

*The Public Benefit Rating is calculated using the following formula:*

Public Benefit Rating Formula: $BV+ (BV \times PBV) = PBR \ 41+ (41 \times 60) = 65.6$

**OSP2015-00001**  
Public Benefit Rating (PBR) = 65.6

**Must receive at least 45 points for a staff recommendation of approval**
Open Space Land - New Application

OSP2015-00001 – Shiraz & Neila Balolia
Parcel A APN#: 370408 382169 - 19.48 Ac.
Parcel B APN#: 370408 387072 - 21.2 Ac.
Parcel C APN#: 370409 011163 - 6.36 Ac.
App. Ac. - .47.04

Subject Parcels
Zoning & Comprehensive Plan

Open Space Land - New Application

OSP2015-00001 – Shiraz & Neila Balolia
Parcel A APN#: 370408 382169 - 19.48 Ac.
Parcel B APN#: 370408 387072 - 21.2 Ac.
Parcel C APN#: 370409 011163 - 6.36 Ac.
App. Ac. - .47.04

Subject Parcels
Rural
Rural Community
Commercial Forest

0 0.075 0.15 0.3 Miles
Open Space Land
Public Benefit Rating System-Evaluation Form

File # OSP2015-00002

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: Open Space Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sara L. Purviance</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street Address:</th>
<th>Status: New Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>4431 Aldrich Road</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City:</th>
<th>Assessor’s Parcel No. (s): Parcel/OSL Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham</td>
<td>380211 527492 0000 6.59/5.59</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State: WA</th>
<th>Zip: 98226</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>4431 Aldrich Road</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Subarea:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Bellingham Urban Fringe</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comprehensive Plan Designation</th>
<th>Parcel Acre(s): 6.59</th>
</tr>
</thead>
<tbody>
<tr>
<td>Urban Growth Area (UGA)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Historical Land Use:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential:</td>
<td></td>
</tr>
<tr>
<td>Purviance Short Plat</td>
<td></td>
</tr>
<tr>
<td>Single Family Residence</td>
<td></td>
</tr>
<tr>
<td>Residential Garden</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Open Space Land Application Acre(s)</th>
<th>5.59</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Zoning Designation:</th>
<th>Urban Residential Mixed (URMX)</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
<th>Soil/Type Capabilities:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td># 178 Whatcom silt loam, 0-3% % slopes, 14.4 % of parcel</td>
<td></td>
</tr>
<tr>
<td># 182 Whatcom-Labounty silt loams, 0-8% slopes, 85.7 % of parcel</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td># 178 Whatcom silt loam is an Agricultural Protection Overlay (APO) soil designation</td>
<td></td>
</tr>
</tbody>
</table>

<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>Conserves or Enhances Natural, Cultural or Scenic Resources:</strong> Naturally vegetated 6.59 acre site serves as a visual buffer between areas of human habitation and mixed use development, protects natural areas viewed from County road. Parcel acreage will not be further developed subject to classification as Open Space Land.</td>
<td>8</td>
<td>10</td>
<td><strong>Public Access:</strong> Posted Open Space Sign; Public Access by appointment; Ample off-street parking fronting public road with room for 3-4 passenger vehicles. Proximity to adjacent mixed uses may increase utilization of site.</td>
<td>25%</td>
<td>40%</td>
</tr>
<tr>
<td><strong>Protect Streams, Stream Corridors, Wetlands, Shorelines and Aquifers:</strong> Predominantly vegetated site preserves hydrologic processes, and controls stormwater run-off, preventing erosion. Site is utilized by nearby development as an off-site stormwater facility drainage.</td>
<td>8</td>
<td>10</td>
<td><strong>Water Resource Protection:</strong> The subject parcel is subject to an Aquifer Susceptibility designation of &quot;Moderate&quot; in the Silver Creek Watershed/Nooksack Channel and Delta Watershed. Site features a meandering seasonal stream that drains into Silver Creek.</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Protects Soil, Unique or Critical Wildlife, Native Plant Habitat:</strong> Preserves coniferous &amp; deciduous tree canopy along seasonal stream, native understory plants and shrubs, grassy areas, and ground cover; vegetated areas provide cover and forage for a variety of terrestrial species and birds.</td>
<td>7</td>
<td>10</td>
<td><strong>Wildlife Habitat:</strong> Abundance of wildlife and diversity of species populate forested canopy and underbrush at edges of forested areas; undeveloped natural areas further protect seasonal stream with presumed historic fish population.</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Promotes Conservation Principles by Example/Offers Educational Opportunities:</strong> Posted Open Space Sign communicates that site is under conservation. Site is across from a public school, and may be utilized by small educational groups to learn about wildlife and open space conservation.</td>
<td>8</td>
<td>10</td>
<td><strong>Parcel Size</strong> Parcel is 6.59 acres Home site is 1.00 acre 5.59 application acres</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Enhances Value of Abutting Parks, Forests, Wildlife Preserves, or other Open Spaces:</strong> Preservation of natural areas enhances ecosystem diversity and health of adjacent open spaces.</td>
<td>5</td>
<td>10</td>
<td><strong>Linkage with other Open Space</strong> Site does not abut classified open space lands, parks or open areas associated with PUD's, Cluster Sub</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td><strong>Enhances Recreation Opportunities:</strong> Picnicking, wildlife and wildlife habitat observation, and scientific day uses are welcome by appointment. Small educational groups are welcome with prior arrangement, by appointment.</td>
<td>7</td>
<td>10</td>
<td><strong>Natural Areas</strong> Approximately 90% of the site is covered with natural vegetation. While subject to the open space classification, the land will remain in a naturally vegetated condition for the duration of the open space taxation agreement.</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td><strong>Preserves Historic and Archeological Sites</strong> None.</td>
<td>0</td>
<td>10</td>
<td><strong>Financial Advantage</strong> None.</td>
<td>0%</td>
<td>40% +/-</td>
</tr>
<tr>
<td><strong>Discretionary Value</strong> None.</td>
<td></td>
<td></td>
<td></td>
<td>0%</td>
<td>40% +/-</td>
</tr>
<tr>
<td><strong>Total</strong> 43</td>
<td>70</td>
<td><strong>Total</strong> 60%</td>
<td>100%</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*The Public Benefit Rating is calculated using the following formula:*

Public Benefit Rating Formula

\[
BV + (BV \times PBV) = PBR \times (43 \times 0.6) = 68.8
\]

**OSP2015-00002 Public Benefit Rating (PBR) = 68.8**

*Must receive at least 45 points for a staff recommendation of approval*
Zoning & Comprehensive Plan
Open Space Land - New Application
OSP2015-00002 - Sara Purviance
APN#: 380211 527492 - 6.69 Ac.
App. Ac. - 5.59

Subject Parcel
City
UGA
Rural
Open Space Land
Public Benefit Rating System-Evaluation Form

<table>
<thead>
<tr>
<th>Property Owner (s)</th>
<th>Classification: Open Space Land</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bar Rental LLC</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Street Address:</td>
<td></td>
</tr>
<tr>
<td>3660 Slater Road</td>
<td>Status: New Application</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>City: Bellingham</td>
<td>Assessor’s Parcel No. (s): Parcel/OSL Acres</td>
</tr>
<tr>
<td>State: WA Zip: 982248</td>
<td>380214 193464 0000 7.89/4.54+/-</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Site Address:</td>
<td></td>
</tr>
<tr>
<td>3909 Bennett Drive</td>
<td></td>
</tr>
<tr>
<td>Subarea: Bellingham Urban Fringe</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Comprehensive Plan Designation</td>
<td>Parcel Acre(s): 7.89</td>
</tr>
<tr>
<td>Urban Growth Area (UGA)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Historical Land Use:</td>
<td></td>
</tr>
<tr>
<td>Vacant Wooded Area</td>
<td>Open Space Land Application Acre(s)</td>
</tr>
<tr>
<td></td>
<td>4.54 +/-</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Zoning Designation:</td>
<td></td>
</tr>
<tr>
<td>Light Impact Industrial (LII)/ Gateway Industrial (GI)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Shorelines: N/A</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil/Type Capabilities:</td>
<td></td>
</tr>
<tr>
<td># 182 Whatcom-Labounty silt loams, 0-8% slopes, 100% of application acres</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Comments:</td>
<td></td>
</tr>
<tr>
<td>Soils not designated for Agricultural Overlay Protection (APO)</td>
<td></td>
</tr>
<tr>
<td>Parcel is split zoned with most of the subject area zoned LII, with a small portion to the east zoned GI.</td>
<td></td>
</tr>
<tr>
<td>Basic Value (BV)</td>
<td>Score</td>
</tr>
<tr>
<td>-----------------</td>
<td>-------</td>
</tr>
<tr>
<td><strong>Conserves or Enhances Natural, Cultural or Scenic Resources:</strong></td>
<td>8</td>
</tr>
<tr>
<td>Conserves and enhances approximately 4.54 acres of naturally vegetated open space; serves as visual buffer between areas of human habitation and mixed use development in the unincorporated UGA reserved for Bellingham. Parcel acreage will not be further developed (by agreement) subject to classification as Open Space Land.</td>
<td>8</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Public Benefit Value (PBV)</th>
<th>Score</th>
<th>MAX</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Public Access:</strong> Posted Open Space Sign; Public Access with one day prior notice; Two designated off-street parking spots in developed commercial use parking lot fronting public road with room for additional parking by special arrangement. Primitive trail provides visual access to undisturbed wetlands and wildlife. Proximity to adjacent mixed uses may increase utilization of site.</td>
<td>30%</td>
<td>40%</td>
</tr>
<tr>
<td><strong>Water Resource Protection:</strong> The subject parcel is subject to an Aquifer Susceptibility designation of &quot;HIGH&quot; and is in the Bellingham Bay Watershed. Site contains Category II, Category III &amp; Category IV wetlands.</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Wildlife Habitat:</strong> Naturally regenerated deciduous forest provides habitat for birds, and vegetated understory provides food and cover to terrestrial species.</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Parcel Size:</strong> Parcel is 7.89 acres Commercial Use is approximately 3.35 acres 4.54 +/- open space land application acres</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td><strong>Linkage with other Open Space:</strong> Site does not abut classified open space lands, or open areas associated with PUD's, Cluster Subdivisions. Site is adjacent to a private recreational vehicle park.</td>
<td>1%</td>
<td>5%</td>
</tr>
<tr>
<td><strong>Natural Areas:</strong> Approximately 57% of the site is covered with natural vegetation. While subject to the open space classification, the land will remain in a naturally vegetated condition for the duration of the open space taxation agreement.</td>
<td>5%</td>
<td>5%</td>
</tr>
</tbody>
</table>

| Preserves Historic and Archeological Sites: | None. | 0 | 10 |
| **Financial Advantage:** None. | 0% | 40% (+/-) |
| **Discretionary Value:** None. | 0% | 40% (+/-) |

| Total | 43 | 70 | Total | 66% | 100% |

The Public Benefit Rating (PBR) is calculated using the following formula:

\[ \text{Public Benefit Rating Formula: } BV + (BV \times PBV) = PBR \{ 43 + (43 \times .66) = 71.38 \} \]

OSP2015-00003 Public Benefit Rating (PBR) = 71.38

Must receive at least 45 points for a staff recommendation of approval
Open Space Land - New Application
OSP2015-00003 – Bar Rental LLC
APN#: 380214 193464 - 7.89 Ac.
App. Ac. - 4.54 (Wooded Area Only)

- Subject Parcel
- Proposed Trail

Approximate location outside of delineated wetlands and associated buffers. Subject to approval under WCC 16.16.

Proposed Parking, Public Access and Open Space Sign
Zoning & Comprehensive Plan
Open Space Land - New Application
OSP2015-00003 – Bar Rental LLC
APN#: 380214 193464 - 7.89 Ac.
App. Ac. - 4.54 (Wooded Area Only)
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-SAVINGS
NEW VALUE X CONSOLIDATED LEVY RATE = NEW TAXES
LEVY RATE = HYPOTHETICAL CONSOLIDATED LEVY RATE

FORMULA:

\[ \text{FMV-CUV} = \text{DIFF} \]
\[ \text{DIFF} \times \text{PBR} = \text{SAVINGS} \]
\[ \text{FMV-SAVINGS} = \text{NEW VALUE} \]
\[ \text{NEW VALUE} \times \text{LEVY RATE} = \text{TAXES} \]

CALCULATION:

\[ \text{FMV-CUV} = \text{DIFF} \]
\[ \text{600,000} - \text{24,000} = \text{576,000} \]
\[ \text{DIFF} \times \text{PBR} = \text{SAVINGS} \]
\[ \text{576,000} \times \text{.85} = \text{489,600} \]
\[ \text{FMV-SAVINGS} = \text{NEW VALUE} \]
\[ \text{600,000} - \text{489,600} = \text{110,400} = \text{New CU Value} \]
\[ \text{NEW VALUE} \times \text{LEVY RATE} = \text{NEW TAXES ON LAND VALUED AT CURRENT USE} \]
\[ \text{110,400} \times .01 = \text{1,104} \]

Variables:

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

HYPOTHETICAL CONSOLIDATED LEVY RATE = 10 dollars per every thousand dollars of assessed value or

384

TAX SHIFT = 4, 896
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 payer 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.
Whatcom County

Open Space Policy and Criteria

and

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

I. Public Benefit Rating System: All applications for 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:

\[ PBR = BV + (BV \times PBV) \]
where:

\[ PBR = \text{PUBLIC BENEFIT RATING} \]
\[ BV = \text{BASIC VALUE} \]
\[ PBV = \text{PUBLIC BENEFIT VALUE} \]

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 (Maximum 10% increase)
1. Twenty (20) acres or larger
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 detriment 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 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

![Diagram of sign and mounting]
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 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 homesite. 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.

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 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 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.

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.

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.
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 happens if the classified land is sold or transferred?
When classified land is sold or transferred, the seller or transferor becomes liable at the time of sale for the additional tax, interest, and penalty unless the new owner(s) signs the Notice of Continuance which is attached to or shown on the real estate excise tax affidavit. The county auditor cannot accept an instrument of conveyance on any classified land unless the Notice of Continuance has been signed or the additional tax, interest, and penalty has been paid. The assessor determines if the land qualifies for continued classification.

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 84.33 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.

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.

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.
- Teletype (TTY) users please call 1-800-451-7985.
409


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<thead>
<tr>
<th>MAMMALS (13)</th>
<th>MOLLUSKS (9)</th>
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<tbody>
<tr>
<td>Preble’s Shrew</td>
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<td>Merriam’s Shrew</td>
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<td>Townsend’s Big-eared Bat</td>
<td>Columbia (Pebblesnail)</td>
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<td>Keen’s Myotis</td>
<td>California Floater</td>
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<td>White-tailed Jackrabbit</td>
<td>Pinto Alalone</td>
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<td>Black-tailed Jackrabbit</td>
<td>Olympia Oyster</td>
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<td>Gray-tailed Vole</td>
<td>Columbia Oregonian</td>
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<td>Washington Ground Squirrel</td>
<td>Poplar Oregonian</td>
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<td>Dalles Sideband</td>
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<td>Olympic Marmot</td>
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<td>Cascade Red Fox</td>
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<tr>
<td>Wolverine</td>
<td></td>
</tr>
<tr>
<td>Pacific Harbor Porpoise</td>
<td></td>
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</tbody>
</table>

**BIRDS (22)**

- Western Grebe
- Clark’s Grebe
- Short-tailed Albatross FE
- Brandt’s Cormorant
- Northern Goshawk
- Golden Eagle
- Common Murre
- Cassin’s Auklet
- Yellow-billed Cuckoo FT
- Flammulated Owl
- Burrowing Owl
- Vaux’s Swift
- Lewis’ Woodpecker
- White-headed Woodpecker
- Black-backed Woodpecker
- Pileated Woodpecker
- Loggerhead Shrike
- Purple Martin
- Slender-billed White-breasted Nuthatch
- Sage Thrasher
- Oregon Vesper Sparrow
- Sagebrush Sparrow

**REPTILES and AMPHIBIANS (10)**

- Sagebrush Lizard
- Common Sharp-tailed Snake
- California Mountain Kingsnake
- Striped Whipsnake
- Dunn’s Salamander
- Van Dyke’s Salamander
- Cascade Torrent Salamander
- Western Toad
- Columbia Spotted Frog
- Rocky Mountain Tailed Frog

**FISH (37)**

- Lake Chub
- Leopard Dace
- Umatilla Dace
- River Lamprey
- Pacific Herring
- Eulachon (Columbia River Smelt) FT

**PACIFIC COD**

- South and Central Puget Sound FSC

**WALLEYE POLLOCK**

- South Puget Sound
- Pacific Hake (Whiting) (Georgia Basin FSC

**BLACK ROCKFISH**

- Brown Rockfish
- Copper Rockfish
- Quillback Rockfish
- Tiger Rockfish

**BOECACIO ROCKFISH**

- Canary Rockfish FT
- Yelloweye Rockfish
- Yellowtail Rockfish
- Greenstriped Rockfish
- Widow Rockfish
- Redstripe Rockfish
- China Rockfish

**CHINOOK SALMON**

- Snake River Fall
- Snake River Spring/Summer
- Puget Sound
- Upper Columbia Spring
- Lower Columbia FT

**CHUM SALMON**

- Hood Canal Summer (includes Strait of Juan de Fuca, not Puget Sound)
- Columbia River FT

**SOCKEYE SALMON**

- Snake River
- Ozette Lake FT

**STEELHEAD**

- Snake River
- Upper Columbia
- Middle Columbia
- Lower Columbia
- Bull Trout FT

**NOT STATE CANDIDATES**

Fish stocks that have been the subjects of federal register notices, but have not yet been added to the state candidate list.

- Coho Salmon
  - Puget Sound/Strait of Georgia FSC
  - Lower Columbia FT

- Steelhead, Puget Sound FT

- Green Sturgeon FT

**INSECTS (19)**

- Beller’s Ground Beetle
- Mann’s Mollusk-eating Ground Beetle
- Columbia River Tiger Beetle
- Hatch’s Click Beetle
- Bog Idol Leaf Beetle
- Columbia Clubtail (dragonfly)
- Pacific Clubtail
- Sand-verbera Moth
- Yuma Skipper
- Shepard’s Parnassian
- Makah Copper
- Chinchquapin Hairstreak
- Johnson’s Hairstreak
- Juniper Hairstreak
- Puget Blue
- Valley Silverspot
- Silver-bordered Fritillary
- Great Arctic
- Island Marble FSC

**OTHER INVERTEBRATES (2)**

- Giant Palouse Earthworm
- Leschi’s Millipede

For more information, check our website: [http://wdfw.wa.gov/conervation/species/](http://wdfw.wa.gov/conervation/species/)

Or contact us:

Wildlife Program (360) 902-2515
Fish Program (360) 902-2700
### STATE ENDANGERED
A species native to the State of Washington that is seriously threatened with extinction throughout all or a significant portion of its range within the state.

The 29 State Endangered species are designated in Washington Administrative Code 232-12-014

### STATE THREATENED
A species native to the state of Washington that is likely to become endangered within the foreseeable future throughout a significant portion of its range within the state without cooperative management or removal of threats.

The 9 State Threatened species are designated in Washington Administrative Code 232-12-011

### STATE SENSITIVE
A species native to the state of Washington that is vulnerable or declining and is likely to become endangered or threatened in a significant portion of its range within the state without cooperative management or removal of threats.

The 8 State Sensitive species are designated in Washington Administrative Code 232-12-011

#### MAMMALS (14)
- Pygmy Rabbit (FE)
- Sperm Whale (FE)
- Fin Whale (FE)
- Sea Whale (FE)
- Blue Whale (FE)
- Humpback Whale (FE)
- North Pacific Right Whale (FE)
- Killer Whale (transients, offshores, others)- Southern Resident (FE)
- Gray Wolf (FE)
- Grizzly Bear (FT)
- Fisher (FC)
- Sea Otter (FSC)
- Columbian White-tailed Deer (FE)
- Woodland Caribou (FE)

#### BIRDS (8)
- American White Pelican (FSC)
- Brown Pelican (FSC)
- Sandhill Crane (FE)
- Snowy Plover (FT)
- Upland Sandpiper (FT)
- Tufted Puffin (FT)
- Northern Spotted Owl (FT)
- Streaked Horned Lark (FT)

#### REPTILES (2)
- Western Pond Turtle (FE)
- Leatherback Sea Turtle (FE)

#### AMPHIBIANS (2)
- Oregon Spotted Frog (FT)
- Northern Leopard Frog (FT)

#### INSECTS (3)
- Oregon Silverspot Butterfly (FT)
- Taylor's Checkerspot (FE)
- Mardon Skipper (FSC)

### MAMMALS (3)
- Western Gray Squirrel
- Mazama Pocket Gopher
- ...subsp. glacialis, paeonensis, tumuli, yelmensis (FT)
- Lynx (FT)

### BIRDS (4)
- Greater Sage-Grouse (FC)
- Columbian Sharp-tailed Grouse (FE)
- Ferruginous Hawk (FT)
- Marbled Murrelet (FT)

### FISH (3)
- Pygmy Whitefish (FE)
- Margined Sculpin (FT)
- Olympic Mudminnow (FT)

### AMPHIBIAN (1)
- Larch Mountain Salamander (FE)

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For more information, check our website: [http://wdfw.wa.gov/conservation/species/](http://wdfw.wa.gov/conservation/species/)

Or contact us at:
- Wildlife Program (360) 902-2515
- Fish Program (360) 902-2700

For more information on federal status, check the US Fish and Wildlife Service or the National Marine Fisheries Service.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<tr>
<td>Originator:</td>
<td>Rob Ney</td>
<td>7/13/15</td>
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<td>7/21/15</td>
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<td>Division Head:</td>
<td>Rob Ney</td>
<td>7/18/15</td>
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<td>8/4/15</td>
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<td>Dept. Head:</td>
<td>Jon Hutchings</td>
<td>7/18/15</td>
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<td>Prosecutor:</td>
<td>Dan Gibson</td>
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<td>Purchasing/Budget:</td>
<td>Jack Loomis</td>
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TITLE OF DOCUMENT:
Ordinance, Whatcom County Code Chapter 10.34 Ferry Rates, and 2015 Unified Fee Schedule

ATTACHMENTS:
Memorandum with attachments, Agenda Bill from 6/23/15 PW Committee, Ordinance, Exhibit A, Exhibit B

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

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:

This ordinance amends Whatcom County Code 10.34 paragraphs A, B, C, D, J, K, L, and M. Paragraphs A and B are housekeeping changes that address “trailer” and “self-propelled heavy machinery” definitions and how fares are calculated for these categories. Paragraph K and L are being updated as the changes have already been made effective. Paragraph J has been updated to change the wording that addresses Lummi Nation passage on the Whatcom County Ferry so that the wording now mirrors the language in the Tidelands Lease Agreement dated 10/24/11.

This ordinance also amends ferry user fees. Paragraph M discusses how multi-ride punch cards purchased prior to the rate change will be handled.

The proposed Unified Fee Schedule removes the $3.00 surcharge (UFS # 2823) and adjusts the ferry fare line items according.

All of these changes will be effective within sixty (60) calendar days from the adopted date of this ordinance.

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.

413
MEMORANDUM

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

THROUGH: Jon Hutchings, Director Public Works

FROM: Robert Ney, Special Programs Manager

RE: Ordinance Amending WCC 10.34 Ferry Rates, and the WC Unified Fee Schedule

DATE: July 7, 2015

Background:

On December 9th, 2014 the Council’s Public Works Committee received a request from the Lummi Island Ferry Advisory Committee (LIFAC) to reduce certain ferry fares. The Council directed staff to analyze the proposal and bring back a recommendation. On June 23, 2015, the Council Public Works Committee reviewed an alternative proposal (unanimously approved by LIFAC). The alternative proposal to provides relief to frequent users of the ferry, and maintains a strong and stable Ferry Fund. Council directed staff to initiate a public hearing and move forward with formal consideration of the alternative proposal. (Additional background and analysis is outlined in the June 23rd Public Works Committee Agenda Bill)

History:

2006: The Ferry Fund was established, separating ferry operating expenses from the Road Fund, and maintaining excess revenues within the Ferry Fund.

2011: The Ferry Fund was quickly becoming depleted and a $3.00/trip “surcharge” was implemented by Council to restore the fund balance. Each individual round trip fare was not amended on the Unified Fee Schedule; instead the surcharge was listed as an additional charge to each trip fee (UFS 2823).

2011-2015: The surcharge allowed the Ferry fund to rebuild and stabilize.

2015: The Council is asked to provide relief for certain multi-ride ticket prices and eliminate the surcharge in favor of a more streamlined unified fee schedule.
Recommendation:

The Public Works Department introduces the attached ordinance amending ferry rates.

Enclosures:

1. Summary of change in ferry pricing
2. Ferry Fund Balance Chart
3. Amendments to County Code Chapter 10.34 and 2015 Unified Fee Schedule.
## Summary of Change Between 6/1/2015 Pricing and Proposal

<table>
<thead>
<tr>
<th>Fare Class</th>
<th>2014 tickets sold</th>
<th>2014 Pricing</th>
<th>6/1/15 Pricing</th>
<th>County Proposal</th>
<th>Ticket/Punch Card Difference</th>
<th>Expected Rider Savings (Increase)</th>
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<tbody>
<tr>
<td>Passenger / Pedestrian</td>
<td></td>
<td></td>
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<td>Passenger/Pedestrian Single Ride</td>
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<td>$115</td>
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<td>$88</td>
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<td>$88</td>
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<td>$28</td>
<td>$37</td>
<td>$28</td>
<td>($9)</td>
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<td>Post- HS full time student multiride</td>
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<td>$70</td>
<td>$98</td>
<td>$70</td>
<td>($28)</td>
<td>$300</td>
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<td>Vehicle / Driver</td>
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<td>Bicycle w/Rider</td>
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<td>($25)</td>
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<td>Needs Based Vehicle W/Driver</td>
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<td>($14)</td>
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<td>Vehicle/Driver - small truck &lt; 20,000</td>
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<td>$32</td>
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<td>Trailer &lt; 16 feet</td>
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<td>Trailer &gt; 30 feet</td>
<td>1</td>
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<td>$70</td>
<td>$70</td>
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<td>$578</td>
<td>$600</td>
<td>$600</td>
<td>$22</td>
<td>$0</td>
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</tbody>
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Savings 97,400  
Increases (12,300)  
Total 85,100
Ferry Fund Balance
Projected End of Year Fund Balance Under Various Proposals

Projection Assumptions:
- Ridership statistics from 2014 are used and projected with a slight increase in 2016 due to fare reduction.
- Ferry Deficit Revenue is projected to follow historic 2 year trends of a high year followed by a low year.
- Wages are as budgeted for 2015-2016 and calculated using 5.0% and 2.5% growth 2017 and 2018.
- Benefits are as budgeted for 2015-2016 and calculated using 3.0% and 3.0% growth 2017 and 2018.
- Non labor are as budgeted for 2015-2016 and calculated using 2.0% per year for 2017 and 2018.
- Ferry dock and boat lease are excluded from growth projections.
CPI-U AG = \( \frac{(\text{CPI-U later year}) - (\text{CPI-U earlier year})}{(\text{CPI-U earlier year})} \)

Step Two: To be completed annually. The annual payment will be calculated by taking the prior year's annual payment and adjusting that at the rate of the CPI-U AG for the pertinent preceding period (the period two years before the current year). Here is the formula:

Annual Payment = \((1 + \text{CPI-U AG})^4 \times \text{(Prior year's payment)}\)

5. Lummi Passage Upon the Ferry. During the term of the lease, Lessee shall grant free foot and non-commercial passenger vehicle passage upon and across the ferry operated by Lessee between Gooseberry Point and Lummi Island to those persons going to Lummi Island for legitimate tribal business who are either enrolled members of the Lummi Nation or employees thereof, and who also present appropriate identification issued by the Nation, including Lummi Indian Business Council Identification cards or current fishing cards/licenses as issued by the Lummi Nation.

6. Improvements. Any buildings, docks, or other structures or improvements placed upon the leased premises by Lessee shall become the property of Lessor upon the expiration or termination of this lease, subject however, to Lessee's right to take possession of, and remove any such improvement at its sole expense within 90 days after the expiration or termination of this lease. If Lessee elects to remove the improvements, it shall return the leased premises to Lessor in good condition and restore the surface of the ground, including areas underwater, to a pre-project condition.

7. Unlawful Conduct. Lessee agrees that it will not use or cause or allow to be used any part of the leased property for any unlawful conduct or purpose.

8. Subleases and Assignments. No sublease, assignment, or amendment of this lease may be made without written consent of the Parties and written approval of the Secretary or his or her authorized representative. This agreement is based on a government-to-government relationship between the Lummi Nation and Whatcom County for the provision of public access to Lummi Island. Any entity operating a ferry under contract for such service with the County shall not be precluded from doing so by this clause and no sublease, assignment, or amendment of this lease shall be necessary for that circumstance, provided that such party shall act consistently with the terms and conditions set forth herein.

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Footnote:
For purposes of this formula, the CPI-U AG should be converted from a percentage by moving the decimal point two digits to the left before being added to 1, e.g., a 2.7% increase in CPI-U would yield a multiplier of 1.027.
PROPOSED BY: _____ Public Works 
SPONSORED BY: ___ Public Works 
INTRODUCTION DATE: ________

ORDINANCE NO. ______
AMENDING WHATCOM COUNTY CODE CHAPTER 10.34, FERRY RATES, AND THE 
WHATCOM COUNTY UNIFIED FEE SCHEDULE

WHEREAS, In December 2014, LIFAC (Lummi Island Ferry Advisory Committee)
requested the County review ferry fares and presented a fare proposal which the County
countered with an alternative proposal that ensured the viability of the ferry fund; and

WHEREAS, LIFAC unanimously approved the counter proposal; and

WHEREAS, The County Council’s Public Work Committee recommended forwarding
the County’s proposal for consideration; and

WHEREAS, Chapter 10.34 of the Whatcom County Code addresses administration
of the ferry rates and an interpretation of the rate schedule, included in the Whatcom
County Unified Fee Schedule; and

WHEREAS, Chapter 10.34 has been updated to address some housekeeping issues
such as “trailer”, “self-propelled heavy machinery” definitions and how fares are calculated
for these categories; and

WHEREAS, Chapter 10.34 has been updated to change the wording to paragraph J
that addresses Lummi Nation passage on the Whatcom County Ferry so that the wording
now mirrors the language in the Tidelands Lease Agreement dated October 27, 2011; and

WHEREAS, it is necessary to amend the rates charged to users of the ferry; and

WHEREAS, in order for the user fees to be amended as requested on Exhibit "B", it
is necessary to amend Chapter 10.34 of the Whatcom County as shown on Exhibit A to this
ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that
Whatcom County Code 10.34 is hereby amended as indicated in Exhibit “A” to this
ordinance.

BE IT FURTHER ORDAINED that the Whatcom County Unified Fee Schedule is
hereby amended as set forth in the attached Exhibit “B”.

BE IT FINALLY ORDAINED that the amended fares set forth in Exhibit “B” shall be
effective within sixty (60) calendar days from the adopted date of this ordinance.

ADOPTED this _____ day of __________, 20____.
ATTEST:

Dana Brown-Davis, Clerk of the Council

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Daniel L. Gibson

Chief Civil Deputy Prosecutor

WHATCOM COUNTY EXECUTIVE
WHATCOM COUNTY, WASHINGTON

Jack Louws, County Executive

( ) Approved ( ) Denied

Date Signed: ________________________
EXHIBIT A

Chapter 10.34
FERRY RATES

Sections:

10.34.005 Definitions.
10.34.010 Effective date for ferry user fees.
10.34.020 Interpretation of rate schedule.
10.34.030 Use of ferry user fee revenues.

10.34.005 Definitions.
A. “Ferry system” means all physical elements of the Lummi Island ferry operations, including both the Gooseberry Point and Lummi Island vehicle and pedestrian staging areas, vehicle parking areas, and ferry docks, and any and all boats utilized for transport purposes.

B. “Operating cost” means all actual daily running expenses and all actual regular and routine maintenance and administrative expenses associated with the use and operation of all physical elements of the ferry system.

C. “Capital cost” means all capital expenditures, including financing and depreciation expenses applied to the replacement, expansion, or creation of ferry system physical elements.

D. “Fare box recovery rate” means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

E. “Ferry user fees” means the rates and charges required of and collected from any and all users of the ferry system, as established and periodically amended in the Unified Fee Schedule.


10.34.010 Effective date for ferry user fees.

10.34.020 Interpretation of rate schedule.
The following provisions should be observed in application of the ferry rate schedule:
A. Buses, Trailers, mobile homes, motor homes, fifth wheels in bed of pickup, and trailers including goosenecks are charged by total length. Length includes tongue, hitch, and projections to the rear shall include, but not be limited to, ball hitches, military hitches, fifth wheel in bed of pickup, dump trailers, recreation trailers and mobile homes.

B. Tow vehicles with trailers shall be charged a combined rate based on total length of the trailer, as defined in paragraph A. above, and weight of the tow vehicle based on the gross vehicle weight of the designation of the vehicle. Heavy machinery that is self-propelled onto the ferry shall be charged at the corresponding vehicle weight.

C. Special trips are a surcharge in addition to the applicable fare.

D. A weekly run limited to fuel trucks, charged at the regular rate, shall be scheduled by the public works department and published appropriately.

E. Trucks and tow vehicles with trailers shall be charged a rate based on length and weight. Heavy machinery and motor homes shall be charged at the corresponding vehicle rate.

F. All trucks shall be charged regular round-trip rates based on gross vehicle weight, legal license capacity.

G. Over-width vehicles or trailers occupying more than one lane shall be charged a 50 percent surcharge. In addition, vehicles towing over-width trailers shall also be charged a 50 percent surcharge.

G. Student multi-ride cards shall be sold to full-time post-high school students only. Proof of post-high school enrollment shall be required at time of purchase. No special student discount is available for drivers of vehicles.

H. Children 12 to under 19 years of age will receive free passenger and pedestrian passage all year round. No special child discount is available for drivers of vehicles.

I. County employees on official county business shall be exempt from fares. All county employee trips exempt from fares will be tracked, and $10.00 per trip will be credited toward the fare box recovery rate each year.

J. Enrolled members of the Lummi Indian Tribe who are issued appropriate identification cards by the tribe, or current fishing cards, licenses, or Lummi Indian Business Council ID cards and who have legitimate tribal business upon Lummi Island, as indicated by the Lummi Indian Tribe, shall have free foot passage upon and across the ferry operated by Whatcom County between Gooseberry Point and Lummi Island. During the term of the Tidelands Lease Agreement dated 10/24/11, Lessee (Whatcom County) shall grant free foot and non-commercial passenger vehicle passage upon and across the ferry operated by Lessee between Gooseberry Point and Lummi Island to those persons going to Lummi Island for
legitimate tribal business who are either enrolled members of the Lummi Nation or employees thereof, and who also present appropriate identification issued by the Nation, including Lummi Indian Business Council Identification cards or current fishing cards/ licenses as issued by the Lummi Nation.

K. A special needs-based discount is provided for Lummi Island residents who meet the very low income levels set annually by the Department of Housing and Urban Development (HUD). The current year’s levels will be posted on the Whatcom County public works ferry web page. The reviewing authority will screen all applicants to determine eligibility. The number of needs-based applications processed annually, regardless of approval, will depend on the constraints of the ferry operations budget for each year. These special needs-based tickets will only be sold at the Whatcom County public works administration building in Bellingham and will require a valid voucher issued from the reviewing authority and valid ID. Eligibility will be reviewed at least annually by the reviewing authority. Forms and procedures will be developed by the Whatcom County public works and the reviewing authority. These changes will take place within 60 calendar days of the adopted date of the ordinance.

L. Eligibility for a special “senior/disabled” discount is available to all Lummi Island residents who currently hold property tax exemptions or deferrals as defined under RCW 84.36.381 and 84.38.030 and WAC 458-16-020 and 458-18-020, and as these may be hereafter amended. These special needs-based tickets will only be sold at the Whatcom County public works administration building in Bellingham and will require valid ID. These changes will take place within 60 calendar days of the adopted date of the ordinance.

M. Intentionally-left-blank. Multi-ride cards purchased prior to the most current fare change shall be valid until six (6) months after the effective date of this ordinance. Multi-ride cards purchased at the previous rate rather higher or lower than the new rate will be accepted for use as one punch equals one round trip. No credit or refund will be allowed or issued. These rate changes will take place within sixty (60) calendar days of the adopted date of this ordinance.

N. All children under the age of 12 years when traveling on the Whatcom County ferry must be accompanied by an adult. An exception to this policy will be made only if the adult parent or guardian signs a waiver exempting Whatcom County from all liabilities for any and all injuries, loss of life, etc., while the child is traveling on the ferry. (Ord. 2013-042 Exh. A; Ord. 2012-016 Exh. A; Ord. 2010-054 Exh. A; Ord. 2008-052 Exh. A; Ord. 2008-017 Exh. A; Ord. 2007-001 Exh. A; Ord. 2005-090 Exh. A; Ord. 2002-012; Ord. 2001-064; Ord. 93-080 Exh. Q).

10.34.030 Use of ferry user fee revenues.
Beginning January 1, 2006, a 55 percent fare box recovery rate shall be applied and evaluated continuously from that time forward. An annual review of ferry system services, actual and projected operating costs, and actual and projected revenue from ferry user fees shall occur in order to verify the 55 percent fare box recovery rate is being achieved.

In any given year the actual fare box recovery rate exceeds 55 percent, the excess revenue shall be retained in the ferry system fund and applied only to future operating costs.
In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase unless there is adequate excess ferry user fee revenue remaining in the ferry system fund collected during prior years.


Prior legislation: Ord. 89-103.
EXHIBIT A

Chapter 10.34
FERRY RATES

Sections:

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10.34.020 Interpretation of rate schedule.
10.34.030 Use of ferry user fee revenues.

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D. "Fare box recovery rate" means the calculated percentage of total revenue generated through ferry user fees in comparison to total actual operating costs for the same period of time minus any revenue from the motor vehicle fuel tax meant for ferry operations, or from interest.

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In any given year the actual fare box recovery rate is below 55 percent, the difference shall be recovered in a future ferry user fee increase unless there is adequate excess ferry user fee revenue remaining in the ferry system fund collected during prior years.

Prior legislation: Ord. 89-103.
## Public Works - Ferry & Docks

<table>
<thead>
<tr>
<th>UFS#</th>
<th>Description</th>
<th>2014 Rate</th>
<th>Rate Basis</th>
<th>Change or New</th>
<th>2015 Rate</th>
<th>Rate Basis</th>
<th>Authorization</th>
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<tbody>
<tr>
<td>2793</td>
<td>Passenger/Pedestrian</td>
<td>$4.00</td>
<td>1 Round Trip</td>
<td>No Change</td>
<td>$4.50</td>
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<td>WCC 10.34</td>
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<tr>
<td>2794</td>
<td>Passenger/Pedestrian - Multiride</td>
<td>$40.00</td>
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<tr>
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<td>Children under 12 W/Parent</td>
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<tr>
<td>2796</td>
<td>Resident School Children-12-18 years Sept 1- through June 30, Children 12 to under 19</td>
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<td>1 Round Trip</td>
<td>No Change</td>
<td>$0.00</td>
<td>1 Round Trip</td>
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<tr>
<td>2797</td>
<td>Needs Based Passenger/Pedestrian (Senior/Disabled/Income)</td>
<td>$17.00</td>
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<td>26 Round Trips</td>
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<td>Post-High School Full-time Students</td>
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<td>10 Round Trips</td>
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<td>2809</td>
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<td>10 Round Trips</td>
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<td>25 Round Trips</td>
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<td>1 Round Trip</td>
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<td>2814</td>
<td>Vehicle W/Driver 20,001 - 36,000lbs</td>
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<td>2815</td>
<td>Vehicle W/Driver 36,001 - 50,000lbs</td>
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<td>1 Round Trip</td>
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</tr>
<tr>
<td>2816</td>
<td>Vehicle W/Driver 36,001 - 50,000lbs</td>
<td>$140.00</td>
<td>10 Round Trips</td>
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<td>Trailer under 16 feet</td>
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<td>Trailer 16 - 30 feet</td>
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<td>WCC 10.34</td>
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<tr>
<td>2820</td>
<td>Trailer over 30 feet</td>
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<td>No Change</td>
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<td>1 Round Trip</td>
<td>WCC 10.34</td>
</tr>
<tr>
<td>2821</td>
<td>Over width Vehicle/Trailers &gt; 1 lane - 50% Surcharge</td>
<td>Surcharge</td>
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<td>Surcharge</td>
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<td>Ordinance 2010-054-2013-042</td>
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<tr>
<td>2822</td>
<td>Special Trips after regularly scheduled runs</td>
<td>$575.00</td>
<td>Per trip surcharge</td>
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<td>Per trip surcharge</td>
<td>WCC 10.34</td>
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<tr>
<td>2823</td>
<td>Per-Trip Surcharge</td>
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<td>1-Round Trip</td>
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<td>1-Round Trip</td>
<td>WCC 10.34</td>
<td>Ordinance 2010-054-2013-042</td>
</tr>
</tbody>
</table>

- **June 2015**: Effective date
- **September 2016**: Effective date
- **2014 UFS-Ordinance - 2013-042**: Related ordinance
- **Council/Executive Change**: Related council/execute change

Wednesday, March 25, 2015

* Subject to adjustment according to federal law
### Public Works - Ferry & Docks

<table>
<thead>
<tr>
<th>UFS#</th>
<th>Description</th>
<th>2014 Rate</th>
<th>Rate Basis</th>
<th>Change or New</th>
<th>2015 Rate</th>
<th>Rate Basis</th>
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<tbody>
<tr>
<td>2793</td>
<td>Passenger/Pedestrian</td>
<td>$4.00</td>
<td>1 Round Trip</td>
<td>Change</td>
<td>$7.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
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<tr>
<td>2794</td>
<td>Passenger/Pedestrian - Multide</td>
<td>$40.00</td>
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<td>No Change</td>
<td>$88.00</td>
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<tr>
<td>2795</td>
<td>Children under 12 W/Parent</td>
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<tr>
<td>2797</td>
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<td>New</td>
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<td>Post-High School Full-time Students</td>
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<td>2799</td>
<td>Lummi Tribe W/I.D.</td>
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<td>2800</td>
<td>Bicycle W/Rider</td>
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<td>$7.00</td>
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<tr>
<td>2802</td>
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<td>2803</td>
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<td>2806</td>
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<td>Change</td>
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<td>2807</td>
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<tr>
<td>2808</td>
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<td>$210.00</td>
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<tr>
<td>2809</td>
<td>Needs Based Vehicle W/Driver (Senior/Disabled/Income)</td>
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<tr>
<td>2810</td>
<td>Vehicle W/Driver 8,001 - 20,000lbs</td>
<td>$29.00</td>
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<td>Change</td>
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<td>2812</td>
<td>Vehicle W/Driver 8,001 - 20,000lbs</td>
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<td>2813</td>
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<td>2814</td>
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<td>2815</td>
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<td>2816</td>
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<tr>
<td>2817</td>
<td>Trailer under 16 feet</td>
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<tr>
<td>2818</td>
<td>Trailer 16 - 30 feet</td>
<td>$31.00</td>
<td>1 Round Trip</td>
<td>Change</td>
<td>$38.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
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<tr>
<td>2820</td>
<td>Trailer over 30 feet</td>
<td>$60.00</td>
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<td>Change</td>
<td>$70.00</td>
<td>1 Round Trip</td>
<td>WCC 10.34</td>
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<tr>
<td>2821</td>
<td>Over width Vehicle/Trailers &gt; 1 lane - 50% Surcharge</td>
<td>Surcharge</td>
<td>No Change</td>
<td>Surcharge</td>
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<tr>
<td>2822</td>
<td>Special Trips after regularly scheduled runs</td>
<td>$575.00</td>
<td>Per trip surcharge</td>
<td>Change</td>
<td>$600.00</td>
<td>Per trip surcharge</td>
<td>WCC 10.34</td>
</tr>
</tbody>
</table>

* Subject to adjustment according to federal law
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

<table>
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<tr>
<th>Initial</th>
<th>Date</th>
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<tbody>
<tr>
<td>twh</td>
<td>07.09.15</td>
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Date Received in Council Office

<table>
<thead>
<tr>
<th>Agenda Date</th>
<th>Assigned to:</th>
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</thead>
<tbody>
<tr>
<td>07.21.15</td>
<td>Introduction</td>
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</table>

Division Head: 

Dept. Head: 

Prosecutor: 07/08/15 

Purchasing/Budget: 7/9/15 

Executive: 

TITLE OF DOCUMENT: Project Budget Amendment for East Whatcom Regional Resource Center

ATTACHMENTS:

East Whatcom Regional Resource Center Project Budget Ordinance

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.)

Executive Louws requests Council review and approval of a Project Budget Amendment for the completion of the HVAC work that will achieve LEED certification for the East Whatcom Regional Resource Center.

COMMITTEE ACTION:

COUNCIL ACTION:

Related County Contract #: Related File Numbers: Ordinance or Resolution Number:

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
ORDINANCE NO.________________

AMENDMENT NO. 6 TO ORDINANCE NO. 2008-025 PROJECT BUDGET NO. 2
(WHICH ESTABLISHED THE Initial EAST WHATCOM REGIONAL RESOURCE CENTER PROJECT BUDGET)

WHEREAS, the East Whatcom Regional Resource Center was substantially completed in 2011, and

WHEREAS, the project subsequently needed additional work to upgrade the HVAC system and achieve LEED's certification, and

WHEREAS, additional funding is necessary to complete these items,

NOW THEREFORE BE IT ORDAINED by the Whatcom County Council that Ordinance No. 2008-025 is hereby amended adding $63,000 of expenditure authority to the original project budget and subsequent amendments, for a total amended project budget of $5,047,571.

ADOPTED this ___ day of _____, 2015.

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, Executive

Date: ________________________
MEMO TO: Jack Louws, County Executive

FROM: Michael Russell, Facilities Manager

DATE: May 19, 2014

RE: Supplemental Budget Request

Background and Purpose

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This supplemental request will provide for the additional of funding for the completion of the LEED certification for the East Whatcom Regional Resource Center.

The East Whatcom Regional Resource Center has had some difficulties in getting the Certification for LEED approval. Whatcom County has contracted with FSI consulting to accomplish this task.

Bids have been received and the cost of acquiring this certification will add an additional cost to the project budget that was already established.

Funding and Source

The total estimated cost for the additional funds is: $63,000

Construction Funds: $53,192.52
LEED Design Funds: $ 8,906.00
Balance Needed $62,098.52

If you have any questions, please contact me at extension 50575.

Thank you,

Enclosures (1)
May, 22 2015

Mike Russell
311 Grand Avenue
Bellingham, WA 98225

Subject: East Whatcom Regional Resource Center Construction and LEED accreditation.

Dear Mike,

The construction bids for the East Whatcom Regional Resource Center have come in and are significantly over the original construction estimate. This was a surprise to us as we track bid and estimate numbers closely and felt that our estimate was a reasonable approximation of the funding that the work would require. This letter covers our hypothesis for the reasoning between the significant discrepancy between the bids and the estimate. Additionally after our conversation with the LEED reviewer we were told that the original commissioning agenda must complete the commissioning documentation for the project. Because of these 2 topics there will be additional funding's that need to be acquired in order to finish this project.

The 2 portions to the additional funding that has been deemed necessary to finish this project are:

1. The first is related to the construction bid coming in higher than the original estimate,
2. The second is related to unforeseen LEED accreditation requirements.

Construction bid discrepancy:
The low bidder bid is over budget by approximately 45%. This is significant and unexpected. After thinking through this and hypothesizing why this could be, we have come up with a few items that could have caused such a separation between the estimate and the bid numbers.

- We know that the original construction estimate of the current project was completed in 2013. We also know that the budget was quite tight in order to accommodate the funds that Whatcom County had available. 2013 was the tail end of the recession and contractors were having to work hard to get the jobs that were out on the market during that time. Now, 2 years later there is a glut of construction projects on the market because company’s finally feel the market is stabilized and all the projects this summer are now allowing the contractors to be more conservative in their estimates. We suspect these factors could be 8-15% of the difference in the bid divergence from the cost estimate. When we discussed this issue early in our current design phase, we were told that the budget was not able to be changed. We discussed that your contingency was ~10% so we felt comfortable with working to the 2013 cost.
- There is a factor that we use for projects that are a significant distance off the beaten path and we could have used a larger number for this project. This could account for an additional 5-10%.
- We don’t have the construction bid cost breakdown from the contractor but we suspect that because the contractors knew they were on a short list they chose to let their bid number be a little higher than normal. This may be another 10-15%.
- We worked with the control contractor to come up with a control cost and received a total estimate from our electrical engineer. It is possible that the electrical cost and the control cost that we received were incorrect and don’t reflect the final bid number. This could account for a significant percentage and we won’t know until we get the contractor breakdowns.

In all, these are some of the possibilities for the bid overage and we will be able to pinpoint this further when we receive the contractor cost breakdown.

**Unexpected LEED accreditation requirements:**

- During the initial LEED analysis that we did on the original project there was evidence that EEI did a significant portion for the LEED documentation and commissioning work. Unfortunately as we have progressed into design we have found that much of the documentation is incomplete and there are several key documents missing. This is work that we did not take into consideration for our proposal.
- When the current project started FSi asked the LEED officials a number of questions about what they would want to see in order to get accreditation for the original project and the current at the same time. One of those question was “can FSi finish out the documentation and submit the LEED credits? FSi was told (verbally) that we did not need EEI to finish the LEED documentation and that FSi could finish it all and obtain LEED accreditation. After the design was complete FSi started the LEED accreditation process and the LEED official informed us that the original commissioning agent would have to finish the original project documentation and perform the seasonal testing for the building. FSi clarified and found that FSi could commission the current project scope and EEI would have to do the rest. Whatcom County requested FSi ask EEI to propose on the scope as a sub consultant to FSi, so that FSi would be responsible for managing EEI and the LEED submittal. Because EEI did not finish the documents as noted in bullet 1 they proposed on a larger scope than originally in FSi’s proposal. EEI proposed that to finish the original commissioning and enhanced commissioning tasks, they would need $9,460. The only overlap in fee between FSi’s original proposal and EEI’s proposal is the seasonal testing required for LEED. FSi budgeted $1,500 for this work and is happy to credit it back towards the EEI scope. We have other commissioning tasks in our original proposal and these will still need to be completed at the end of the current construction by FSi, before EEI can complete their LEED documentation.

<table>
<thead>
<tr>
<th>Additional required:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>EEI proposal fee:</td>
<td>$ 9,460.00</td>
</tr>
<tr>
<td>10% FSi Markup:</td>
<td>$ 946.00</td>
</tr>
<tr>
<td>Subtotal:</td>
<td>$10,406.00</td>
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</tbody>
</table>
| Less FSi credit:           | $<1,500.00>
| **TOTAL ADDITIONAL COMMISSIONING REQUIRED** | **$ 8,906.00** |
Project contingency:
  - FSi recommends to have a 15% contingency upon the funds that are requested

Respectfully,

FSi consulting engineers

Brian A. Johnson
FSi consulting engineers
506 Second Ave, Suite 700
Seattle WA 98104
O (206) 622-3321
C (425) 449-1046
Bid Results:

Andgar Corporation $141,701.32
Blythe Plumbing & Heating $101,036.97 (assume award bid)
Hilco Contracting $91,842.00

15% Contingency: $15,155.55
subtotal (Blythe & contin) $116,192.52
less current funds $63,000.00
Construction Funds Subtotal needed: $53,192.52

Additional LEED design funds may need:

EEI Fundamental Commissioning $5,280.00
EEI Enhanced Commissioning $4,180.00
EEI Subtotal: $9,460.00
FSi 10% markup $946.00
subtotal for EEI $10,406.00
FSi proposed credit (Seasonal Testing) $1,500.00
subtotal to ADD $8,906.00

Total Additional Funds Required (worst case) $62,098.52

Assumptions:
1. Award to Blythe Plumbing & Heating because Hilco is not reliable based on DLR recommendation of work done at the Courthouse Courtroom Renovations.
2. Add 15% for construction contingency.
3. Assumed we still have $63,000 funds available for construction.
4. Assume no Fee reduction negotiated with FSI on the EEI commissioning proposal. FSI indicated the $1500 credit for not performing seasonal testing, and 10% markup on EEI proposal. I have a memo to FSI for start of negotiations, requesting that they reconcile the EEI proposal with theirs for no cost increase and letter from LEED as well.

After phone conference with FSI (Brian & Ben), Michael Russell & me (Garrett). FSI to send letter of explanation of 1) Cost Estimate vs Bid Amounts & 2) LEED fees by EEI and credit from FSI, including history & LEED requirement for EEI.
**TITLE OF DOCUMENT:** Resolution to Adopt the Whatcom County Multi-Jurisdictional Hazard Mitigation Plan Updated June 1, 2015.

**ATTACHMENTS:** Up-Dated Whatcom County Multi-Jurisdictional Hazard Mitigation Plan Updated.

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

The proposed updated Whatcom County Multi-Jurisdictional Natural Hazards Mitigation Plan identifies natural hazards and potential mitigation strategies within Whatcom County. Adoption of the plan by the Whatcom County Flood Control Zone District is required in order for the District to be eligible to receive Hazard Mitigation Grant Program funding after presidentially-declared disasters.

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

TO: The Honorable Members of the Whatcom County Flood Control Zone District Board of Supervisors

THROUGH: Jon Hutchings, Public Works Director

FROM: Paula J. Cooper, River and Flood Manager
       Gary Stoyka, Natural Resources Manager

RE: Whatcom County Multijurisdictional Natural Hazards Mitigation Plan

DATE: July 10, 2015

Attached is a resolution of the Whatcom County Flood Control Zone District Board of Supervisors adopting the updated Whatcom County Multijurisdictional Natural Hazards Mitigation Plan for your consideration and approval.

- Requested Action
  Public Works respectfully requests that the County Executive, and the County Council, acting as the Flood Control Zone District (FCZD) Board of Supervisors, approve the attached resolution adopting the plan.

- Background and Purpose
  Adoption of this plan is necessary to qualify the Flood Control Zone District for Federal and State funding for hazard mitigation. The plan has been updated to reflect progress on mitigation measures made since the 2011 update to the plan. This plan update will be approved by FEMA pending adoption by the jurisdictions covered.

Please contact Paula Cooper at x50625 or Kent Catlin at 676-6681 if you have any questions or concerns regarding the resolution or plan.

Encl.
MEMORANDUM

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

THROUGH: Sheriff Bill Elfo, Director of Emergency Management

FROM: Kent Catlin, Deputy Director

RE: Whatcom County Multijurisdictional Natural Hazards Mitigation Plan

DATE: July 09, 2015

Attached is a resolution of the Whatcom County Council adopting the updated Whatcom County Multijurisdictional Natural Hazards Mitigation Plan for your consideration and approval.

- **Requested Action**
  Division of Emergency Management respectfully requests that the County Executive and the County Council approve the attached resolution adopting the plan.

- **Background and Purpose**
  Adoption of this plan is necessary to qualify Whatcom County for Federal and State funding for hazard mitigation. The previous version of the plan was adopted by Whatcom County in 2004. The plan has been updated to reflect progress on mitigation measures made since the original version of the plan and to address additional flood hazard areas besides the Nooksack River, including coastal areas and alluvial fans. In addition, the Flood Control Zone District has been added as a separate jurisdiction included in the plan. This allows the FCZD to apply for funds in addition to the County as a separate jurisdiction. This plan will be approved by FEMA pending adoption by the jurisdictions covered.

  Please contact Kent Catlin at 676-6681 or Paula Cooper at x50625 at 676-6681 if you have any questions or concerns regarding the resolution or plan.

Encl.

Phone (360) 676-6681 Email wcdem@co.whatcom.wa.us Fax (360) 738-2518
RESOLUTION NO. __________

(A resolution of the Whatcom County Flood Control Zone District Board of Supervisors)

ADOPTING THE UPDATED WHATCOM COUNTY MULTI-JURISDICTIONAL NATURAL HAZARDS MITIGATION PLAN

WHEREAS, identification of natural hazards and development of plans to reduce or eliminate the associated long term risk to human life and property results in a safer community; and,

WHEREAS, the Disaster Mitigation Act of 2000 (P.L. 106-390/44 CFR Parts 201.6) reinforces the importance of mitigation planning and emphasizes planning for disasters before they occur; and,

WHEREAS, States, communities and special purpose districts must have an approved mitigation plan in place prior to receiving post-disaster Hazard Mitigation Grant Program (HMPG) funds; and,

WHEREAS, the planning process is intended to facilitate cooperation between state and local authorities and encourages local input; and,

WHEREAS, Whatcom County staff participated in a collaborative hazard mitigation planning and update process on behalf of the Whatcom County Flood Control Zone District.
NOW, THEREFORE, BE IT RESOLVED that the Whatcom County Flood Control Zone District Board of Supervisors hereby adopts the Whatcom County Multi-Jurisdictional Natural Hazards Mitigation Plan, dated June 1, 2015 and attached as Exhibit A to this resolution.

APPROVED this ____ day of ________, 2015.

ATTEST:

__________________________
Dana Brown-Davis, Clerk of the Board

APPROVED AS TO FORM:

__________________________
Daniel Gibson, Civil Deputy Prosecutor

WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT BOARD OF SUPERVISORS
WHATCOM COUNTY, WASHINGTON

__________________________
Carl Weimer, Chair Board of Supervisors

Page 2
USE LINK TO VIEW THE
WHATCOM COUNTY NATURAL HAZARDS MITIGATION PLAN


A MULTI-HAZARD, MULTI-JURISDICTIONAL PLAN DEVELOPED FOR THE BENEFIT OF ALL CITIZENS AND GOVERNMENTAL JURISDICTIONS WITHIN WHATCOM COUNTY

Prepared by:
Whatcom County Division of Emergency Management

June 1, 2015