# WHATCOM COUNTY COUNCIL AGENDA BILL

## CLEARANCES

<table>
<thead>
<tr>
<th>Originator:</th>
<th>SM</th>
<th>Date</th>
<th>9/15/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division Head:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td></td>
<td>7/21/15</td>
<td></td>
</tr>
</tbody>
</table>

### TITLE OF DOCUMENT: Economic Development Investment Program – EDI Board recommendation

### ATTACHMENTS: Memorandum; EDI Program application from Port of Bellingham; EDI TAC Funding Application Assessment; EDI Board Meeting Notes from 9/8/15; Rural Sales Tax Fund spreadsheet

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

The Economic Development Investment Board has reviewed a funding application from the Port of Bellingham and is making the following recommendation for adoption by the County Council:

Approval of the Port of Bellingham’s request for EDI funding in the amount of $3-million in support of the All American Marine Expansion project: as a loan in the amount of $2-million and a grant in the amount of $1-million.

### COMMITTEE ACTION:

9/29/2015: Held in Finance Committee

### COUNCIL ACTION:

9/29/2015: Held in committee

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

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

To: Whatcom County Council Members
From: Jack Louws, County Executive
Subject: Economic Development Investment Board – Funding Recommendation
Date: September 15, 2015

At the last meeting of the EDI Board, the following recommendation adopted by the Board is being presented for confirmation by the County Council. If this recommendation of the Board is adopted by the Council, the administration will proceed with the preparation of an agreement and supplemental budget for County Council review and approval.

<table>
<thead>
<tr>
<th>Project</th>
<th>Funding Request</th>
<th>Board Recommendation</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port of Bellingham, All</td>
<td>$2,000,000 (loan)</td>
<td>$2,000,000 (loan)</td>
<td>11-0</td>
</tr>
<tr>
<td>American Marine Expansion</td>
<td>$1,000,000 (grant)</td>
<td>$1,000,000 (grant)</td>
<td></td>
</tr>
</tbody>
</table>

The Administration has confirmed that sufficient fund balances are available for council approval of this request. The EDI funding application is attached for your review as you consider this recommendation at your meeting on September 29th.

If you have any questions on this matter, please feel free to contact me at 778-5200.

Attachments: Port of Bellingham’s EDI Program application and TAC Assessment
Meeting Notes of EDI Board meeting of 9/8/15
Rural Sales Tax Fund spreadsheet 7/31/15
EDI Program Technical Advisory Committee (TAC)
Funding Application Assessment

Applicant: Port of Bellingham
Project Title: All American Marine Expansion
Amount Requested: $2,000,000 Loan, $1,000,000 Grant
TAC Meeting Date: August 24, 2015 (Due to last-minute schedule changes only one TAC member was able to attend, so it was decided that the application would be reviewed by each member separately, outside the meeting. Two TAC members scored the application.)
Scorers: Jeff Callender, Pinky Vargas.

Scoring: Each TAC member used the Northwest Economic Council EDI Technical Advisory Committee Project Scoring Sheet, and the following is the average of the two sets of scores, by category:

<table>
<thead>
<tr>
<th>Category</th>
<th>First Score</th>
<th>Maximum Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Impact:</td>
<td>28.5</td>
<td>33</td>
</tr>
<tr>
<td>Environment &amp; Quality of Life:</td>
<td>10.5 / 15</td>
<td></td>
</tr>
<tr>
<td>Safety &amp; Public Support:</td>
<td>7 / 9</td>
<td></td>
</tr>
<tr>
<td>Fiscal Considerations:</td>
<td>12.5 / 15</td>
<td></td>
</tr>
<tr>
<td>Project Readiness:</td>
<td>10.5 / 12</td>
<td></td>
</tr>
<tr>
<td>Bonus Points:</td>
<td>100 / 100 (Build It and Jobs Will Come)</td>
<td></td>
</tr>
<tr>
<td>Bonus Points:</td>
<td>50 / 100 (Loan/Grant Combination)</td>
<td></td>
</tr>
<tr>
<td>TOTAL:</td>
<td>219 / 284</td>
<td></td>
</tr>
</tbody>
</table>

The score of 219 places the application in the “compelling” range (170 to 284), which means that funding for this proposal should be strongly considered.

Comments: Because each reviewer scored the application separately there was no discussion, and therefore, no comments were generated.
Whatcom County
Economic Development
Investment Program
Application for Funding

PORT OF BELLINGHAM
ALL AMERICAN MARINE EXPANSION PROJECT

Jack Louws, Whatcom County Executive
Preliminary Information and Application

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

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

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

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

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

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

**Preferential Project Types**

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

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

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

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

Preferential Project Terms

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

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

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

Preferential* Project Amounts (Guidelines)

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

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

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

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

Past Performance

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

If yes, provide project name and EDI grant/loan awarded: Wood Stone $500,000 loan, Index Industries $200,000 grant/$500,000 loan, “C” Street Terminal $1 million grant/$2 million loan

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

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

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

THRESHOLD PROJECT CRITERIA

Evidence of Planning

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

- Project included on an adopted regional economic strategy ("CEDS" list).
- Project included in the applicant's Comprehensive Plan.
- Project included in the applicant's Capital Expenditure Plan or adopted budget.

COMMENTS: The project is listed in the 2015 CEDS and included in the Port's Comprehensive Scheme of Harbor Improvements.

THRESHOLD PROJECT SCORING

POINTS

Preferential Project Type

<table>
<thead>
<tr>
<th>POINTS</th>
<th>Preferential Project Term</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Jobs In Hand</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>Build It And Jobs Will Come</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Community Enhancement</td>
<td>2</td>
</tr>
</tbody>
</table>

5

- Preferential Project Terms
  - Loan Only                           | 10 points |
  - Loan/Grant                          | 5 points  |
  - Grant Only                          | 2 points  |

0

- Preferential Project Amounts
  - Within Dollar Limits                 | 5 points  |
  - Outside Preferred Dollar Limits      | 0 points  |

15

TOTAL POINTS

To proceed to other parts of the application and to receive EDI Board review, a proposed project must score 10 or more points on the above section.
Whatcom County Economic Development Investment (EDI) Program
Rovelling Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT APPLICANT

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

PROJECT TITLE

All American Marine Expansion Project

PROJECT AMOUNT REQUESTED

$3,000,000    EDI TOTAL (Loan $2,000,000; Grant $1,000,000)
$4,527,083    Local Match  (10% of EDI request minimum)

PROJECT TYPE

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

PROJECT TERMS

___ Loan Only    X  Grant/Loan    ___ Grant Only    If a loan, term requested: 20 (years)

PROJECT LOCATION: 207 Harris Ave, Bellingham
Whatcom County Economic Development Investment (EDI) Program
Roving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT DESCRIPTION
(one page limit)

The Port is seeking $3 million in EDI funding ($1 million grant/$2 million loan) as partial support toward a new 39,000 sq. ft. production facility the Port will lease to All American Marine, the region’s premier manufacturer of high speed and innovative aluminum passenger ferries, excursion vessels and workboats. The project also reconfigures portions of the 14.5 acre Harris Avenue Shipyards master plan area to additionally benefit Puglia Engineering dba Fairhaven Shipyards and its 100 person workforce. All American Marine will add 27 living wage jobs to its current roster of 43 employees. The median wage of $27/hr exceeds the county median wage of $19/hr. The total project costs $9.5 million. The balance will be funded through a $2 million application to the state Community Economic Revitalization Board, and Port capital funds or GO bonds issued by the Port.

All American Marine has outgrown its present 20,000 square foot building. The configuration is poorly designed for the vessels it needs to construct. As the company has increased its ability to bid and construct more complex vessels it has drawn more attention from potential larger boat operators. The present facility is geared to building boats under 100’ long and under 35’ wide. The company is partnering in this building project with the Port to expand and make more efficient its capability to build larger vessels, and to effectively have a continued presence within the larger vessel marketplace. The new facility will provide better production flow and its siting orientation will allow more efficient water access. The Port and All American looked at other options for the project including retrofitting the current building. But those scenarios did not markedly improve the company’s production process, nor benefit the shipyard area for the cost involved.

All American extends direct economic benefits to Whatcom County. The company uses over 290 local vendors and suppliers, who provide additional jobs and wages in the economy. All American pays local sales and B&O taxes. As the company grows and builds larger and more expensive vessels it will pay more local taxes. The company is an anchor for many other marine trades businesses in the area.

Engineering design is underway for the project. The permitting process is not complex. The anticipated start of construction is January 2016 and the facility will be operational in August 2016. For All American to meet demand for contacts for larger vessels the Port must meet this schedule.

This project is a result of several years of negotiations between the Port, All American and Puglia. It is a complex transaction. All American executed a Memorandum of Understanding with the Port on June 16, 2015 that provides the foundation for this project to proceed. A key private decision remaining is Fairhaven Shipyards agreeing to vacate Warehouse #9. A lease amendment is also required with the Shipyard. In addition, a final lease must be negotiated with All American and project costs need to be acceptable at the 30% and 60% design steps. Securing EDI funding is an important condition in the MOU as it will keep the project costs manageable and support a lease payment the business can afford.

As a “jobs-in-hand” project this is an optimal use of EDI funds. The project retains and grows a key marine trades employer in Bellingham that pays living wages. Without the support of EDI and the state CERB funding the project costs would be difficult to meet, and the employer has indicated he would likely move the jobs out of the county.

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BASIC PROJECT INFORMATION

1. Complete the public project budget and status of funds below. If EDI funds are approved is funding 100% complete?  Yes  No

The Port is applying to the state CERB program for gap financing. The decision on this source will be made on September 17. The Port anticipates being competitive for this fund given the quality of the project.

<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Amount</th>
<th>Planned/Applied For</th>
<th>Secured</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Dollars</td>
<td>$0</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>State Dollars (CERB)</td>
<td>$2,000,000</td>
<td>Yes X</td>
<td>No</td>
</tr>
<tr>
<td>Local Dollars</td>
<td>$4,527,083</td>
<td>Yes X</td>
<td>No</td>
</tr>
<tr>
<td>EDI Funding</td>
<td>$3,000,000</td>
<td>Yes X</td>
<td>No</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$9,527,083</td>
<td>Yes X</td>
<td>No</td>
</tr>
</tbody>
</table>

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

All American Marine will be moving existing equipment currently valued over $1,000,000. This equipment consists of a variety of different items such as compressors, welding machines, argon delivery systems, various types of saws, office equipment. Additionally, All American Marine plans to install new equipment totaling $775,000, which includes an overhead crane system. The new equipment is partially funded by a federal grant. The company will also spend $200,000-$500,000 in moving expenses to the new building.

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

Construction of a 39,000 square foot pre-engineered steel building on a 2-acre site, with 3 hangar-style doors and including a main fabrication area in 3 bays, and all related on-site improvements including parking. The project also includes: (1) Fire sprinkler system throughout, (2) minimal heating, lighting & power to most of the building (3) electrical system upgrades required for relocating the overhead 3-phase power to underground, (4) re-service to the Arrowac Building, and the new building service, (4) site grading, base and paving, (5) new storm drainage and treatment system, (6) rerouting all water mains, fire lines, sanitary sewer main, fuel line, and HTCI & phone lines, and (7) demolition of the existing Warehouse #9 building and concrete floor. The exact project elements will be refined through the final design process.

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

The project retains and expands All American Marine, a significant local boat manufacturer and Port tenant. Significantly, without this project All American’s growth will be stifled and the owner has indicated he would likely relocate the company out of the county. All American’s employment is
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

Currently 43, but ranges up to 50. This project will allow All American to add an additional 27 living wage jobs. The median wage will be $27/hr, which is well over the county median wage of $19/hr.

Puglia Engineering, dba Fairhaven Shipyard, which leases much of the Harris Avenue Shipyard area will also benefit from the project. Some of Puglia’s operation will be vacating Warehouse #9, which will be demolished for the new building, and Puglia will then occupy All American’s former building.

The project will help consolidate operations for more efficient use of the 14.5 acre master plan area. All American and Puglia also share a marine railway. The Port is also replacing the wooden section of the aged shipyard pier, at a cost of $8 million, which directly benefits Puglia. On average the Shipyard employs 100 skilled workers paying an average wage of $27/hr. The pier project allows the Shipyard to maintain current levels of employment.

The Port’s Fairhaven District, which includes the Shipyard and Fairhaven Marine Industrial Park, represent a good concentration of marine business in Bellingham. There is also synergy with the C Street marine trades area and Squalicum Harbor, where several vendors of All American’s are located.

All American’s local impact extends beyond high wages. As a custom vessel builder, All American Marine deals with a large array of vendors and suppliers. Of 650 vendors and supplies based in Washington 292 are in Whatcom County. Over the last ten years, All American Marine has spent approximately $4,608,000 to Whatcom County businesses, 20% of what the company procures statewide. These expenditures create additional jobs and incomes locally.

Both All American Marine and its local suppliers/vendors pay Washington State and Bellingham Business and Occupation tax. Over the last ten years, $460,000 has been generated in Washington State B&O taxes by All American Marine sales plus the amount of sales made to All American Marine by its Bellingham/Whatcom County suppliers. Similarly, All American Marine sales plus the amount of sales made to All American Marine by its Bellingham/Whatcom County suppliers has generated $160,000 in B&O tax for the City of Bellingham. All American Marine has paid out approximately $150,000 in personal property taxes and Port of Bellingham leasehold taxes over the last ten years.

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

<table>
<thead>
<tr>
<th>Permit/Review</th>
<th>In Process</th>
<th>Date Completed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preliminary Engineering</td>
<td></td>
<td>2014</td>
</tr>
<tr>
<td>Environmental Permits (apply)</td>
<td></td>
<td>8/15</td>
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<tr>
<td>Environmental Review</td>
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<td>9/15</td>
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<tr>
<td>Design Engineering</td>
<td>6/16</td>
<td>10/15</td>
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<tr>
<td>Right-of-Way</td>
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<td>N/A</td>
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<tr>
<td>Bid Documents</td>
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<td>11/15</td>
</tr>
<tr>
<td>Construction Permits</td>
<td></td>
<td>12/15</td>
</tr>
<tr>
<td>Award Construction Contract</td>
<td></td>
<td>12/15</td>
</tr>
<tr>
<td>Begin Construction</td>
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<td>1/16</td>
</tr>
<tr>
<td>Project Operational</td>
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<td>8/16</td>
</tr>
</tbody>
</table>

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

City of Bellingham – SEPA review, shoreline, building, mechanical and electric permits

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

The Port will own the building it will lease to All American. As a condition of its lease All American will be responsible for ongoing operations and maintenance of the facility. Utility rates will not be affected.

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

Yes. The Port is negotiating an initial 25 year lease and 20 year renewal with All American. Repayment of the $2 million EDI loan will be secured by the rental stream and other operating funds generated by Port real estate. The Port will repay the EDI loan over 20 years. The project does not spur indirect revenues for repayment.

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

The Port is applying to the State Community Economic Revitalization Board (CERB) for the maximum award of $2 million. The balance of the project cost, about $4.5 million, will be paid by Port capital funds or potentially G.O. bonds issued by the Port. Tenant lease revenue, operating funds generated by the Port’s real estate division and taxes paying service on G.O. bonds will provide debt service.

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

Since its inception in 1987 All American Marine has built over 100 aluminum boats. In the early days, All American’s mainstay was monohull commercial fishing vessels. In 1999, All American seized the opportunity to move into the high-tech catamaran business through an exclusive partnership with a New Zealand naval architecture firm Teknicraft Design. Today, All American is recognized globally as a leader in the construction of aluminum catamaran hydrofoil-assisted vessels.

Over the years, All American’s success in building high quality has earned recognition and repeat business both within the public and private sectors. All American has successfully won several government contracts, providing vessels for the National Oceanic and Atmospheric Administration and the U.S. Army Corps of Engineers in addition to multiple municipal contracts with transit agencies such as King County Ferry District and Kitsap Transit. All American has also served private passenger vessel tour operators and recreational vessel owners from all over the country.

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The future for All American is bright and the technology offered by the company is clearly distinguishable from the competition. With All American’s exclusive rights to the Teknicraft Design signature hydrofoil-assisted hull design, All American can sell vessels that help pay for themselves. The hydrofoil displaces approximately one-third of the vessel’s weight, which in turn reduces water being displaced by the hull and results in a smaller wake wash. This design allows the vessel to use one-third less horsepower and one-third less fuel than a conventional catamaran. Furthermore, when compared to similarly sized monohull vessels, All American catamarans consume about half of the fuel.

All American’s vessels have been confirmed as producing some of the lowest levels of wake energy within their tested class. It was All American’s design that was chosen through a nationwide study to be specifically engineered for a new class of ultra-low wake energy vessels. All American, with collaboration from global partners, engineered and delivered the Rich Passage 1 as the first ultra-low wake passenger ferry. Since the successful delivery of this vessel, All American has continued to receive global interest for future new construction projects.

All American Marine is also gearing up to pursue a new niche market segment. Over the last 5 years, the U.S. has been moving towards the development of offshore wind farms as a source of renewable energy. Europe has greatly invested in offshore wind farms and has served as a global model. The aluminum catamaran hull has become the vessel of choice for nearly all European offshore wind farms. Fleets of over 100 catamarans have been built to support the farms in Europe. With the development of many new offshore wind farms planned for the U.S. and All American’s access to a proven wind farm catamaran support vessel design, All American is anticipating double digit growth from this emerging market segment.

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

All American Marine has outgrown its 20,000 square foot L-shaped building it has occupied since 2002. The configuration is poorly designed for the vessels it needs to construct. As the company has increased its ability to bid and construct more complex vessels it has drawn more attention from potential larger boat operators. There is a lot of demand to replace a large number of aging U.S. Coast Guard “K-Class” vessels. To date, the company has built two larger K-Class vessels and currently has a third on backlog order. For the company to be competitive in this market it needs to ease the constraints it has with its present production facilities. The present facility is geared to building boats under 100’ long and under 35’ wide. Thus the company is partnering in this building project with the Port to expand and make more efficient its capability to build larger vessels, and to effectively have a continued presence within the larger vessel marketplace. The new facility will provide better production flow and its siting orientation will allow more efficient water access.

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

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

This is a “Jobs In Hand” project. Construction of the new building will directly support existing jobs at All American and allow the addition of new hires.

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

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Current Jobs Retained** (In FTEs)</th>
<th># Of Jobs Created Year 1 (In FTEs)</th>
<th># Of Jobs Created by Year 5 (In FTEs)</th>
<th>Hourly Wage of current or new position</th>
<th>Local Occupational Hourly Wages***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mgmt./Admin*</td>
<td>3</td>
<td></td>
<td></td>
<td>$108,250</td>
<td>N/A</td>
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<tr>
<td>Technical/Prof</td>
<td>5</td>
<td>1</td>
<td>3</td>
<td>$35</td>
<td></td>
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<tr>
<td>Office/Clerical</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>$23</td>
<td></td>
</tr>
<tr>
<td>Production (job floor support)</td>
<td>5</td>
<td></td>
<td></td>
<td>$17</td>
<td></td>
</tr>
<tr>
<td>Sales</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>$30</td>
<td>$15-$33 ($25)</td>
</tr>
<tr>
<td>Skilled Crafts</td>
<td>28</td>
<td>7</td>
<td>21</td>
<td>$25</td>
<td>$16-$22 ($19)</td>
</tr>
<tr>
<td>Others</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Totals</td>
<td>43</td>
<td>10</td>
<td>27</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

* Indicate Management positions in annual salary.
** Retained jobs are defined as jobs that would otherwise be lost from the county without this project.
*** Data from ESD, Occupational Wage Estimates. 25th to 75th percentile range (avg). Sales in manufacturing and welders job categories

Projected annual gross payroll for all job classifications: $4,500,000 (with addition of new jobs).

Describe fringe benefits the company offers to regular full time employees
(health insurance, retirement plans, etc.)

All American provides a benefit package valued at $2 to $7/hr. These benefits generally consist of group health insurance, group life insurance, 401(k) matching contributions, paid personal time off, paid holidays, bereavement leave, jury duty pay, educational and training assistance and tool allowances.

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

Maritime Trades is a target sector in the Port’s countywide economic development strategy. From a manufacturing and business operation’s perspective, Bellingham and the region has served as a home to boat and ship building companies for more than 100 years. This is particularly true in the Fairhaven District of Bellingham where All American Marine, Fairhaven Shipyard, Northwest Marine Industries and Seaview Boats Fairhaven are located. The community has long-established and newer companies, existing manufacturing infrastructure, a network of local suppliers and repair shops, an experienced and
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

skilled workforce and supportive workforce, higher education and economic development organizations. The Port of Bellingham uniquely provides maritime real estate and marina space and economic development support.

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

All American’s innovations are not only restricted to the hull design. All American is very sensitive to the environmental impact of their designs and boat building process. Production takes place in a clean and environmentally controlled facility. The new facility will allow All American to continue fabrication using the latest advancements in welding ventilation, fabrication climate control, and paint process containment. All American is also encouraging customers to explore new environmentally friendly coatings such as exterior vinyl sheet goods in lieu of heavy paint. Exterior grade vinyl is lighter and more UV stable than paint. All American also utilizes LED lighting to lower power consumption requirements and lightweight materials are utilized in each and every system and structural component to mitigate increased fuel consumption associated with heavy vessel displacement.

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

The fabrication building will be a safer building for the company’s employees by virtue of being a new and modernly equipped facility. The reconfiguration of the shared parking area will improve safety as the shipyard has a lot of commercial traffic.

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

With a larger, modern fabrication building All American will increase contract activity and sales to a wider variety of customers. The overall site will benefit by deconstructing buildings and reassigning Puglia Engineering to consolidate its business operation. Parking will be redesigned to benefit both tenants. Success will be evidenced by more efficient and harmonious business activity within the Shipyard.
Application for Funding – Certification

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

Signature of Responsible Public Official: __________________________ Date 7/23/15

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

ATTACHMENT A
Engineering Costs
Attachment A

**Engineering Estimates: All American Marine Expansion Project**

**Direct Costs**

<table>
<thead>
<tr>
<th>Building and Site</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incl. Contractor Gen. Req'mts &amp; Mobilization (10%) &amp; Overhead &amp; Profit (8%)</td>
<td>$6,457,213</td>
</tr>
<tr>
<td>Tax</td>
<td>8.7% $561,778</td>
</tr>
</tbody>
</table>

**Total Construction:** $7,018,991

**In-Direct Costs:**

<table>
<thead>
<tr>
<th>Feasibility Studies</th>
<th>$35,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>A &amp; E Design / Permitting Support</td>
<td>6.0% $400,356</td>
</tr>
<tr>
<td>Construction Mgmt. Support/ Inspections</td>
<td>2.0% $133,452</td>
</tr>
<tr>
<td>Port Costs: Admin. permits. W.O. utility coord.</td>
<td>0.5% $33,363</td>
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<tr>
<td>Permit Fees: SEPA, Design Rev. Shoreline SDP, PW, Bldg Fees</td>
<td>$76,000</td>
</tr>
<tr>
<td>Traffic Impact</td>
<td>$75,174</td>
</tr>
</tbody>
</table>

**Total Indirect Costs:** $753,345

**TOTAL PROJECT COSTS w/o Contingency:** $7,772,335

**Contingencies on Construction (w/ tax):** 25% $1,754,748

**TOTAL W/ CONTINGENCY:** $9,527,083

---

THIS IS A FEASIBILITY BASED OPINION OF PROBABLE COSTS USING LIMITED PRELIMINARY ARCHITECTURAL, CIVIL, MECHANICAL & ELECTRICAL EVALUATIONS.
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

ATTACHMENT B
Project Maps
Figure 1.1: Vicinity Map

SHIPYARD MASTER PLAN
201 HARRIS AVENUE

PORT OF BELLINGHAM
WASHINGTON STATE

PURPOSE: DEVELOPMENT PLAN TO MEET PRESENT AND FUTURE DEMAND FOR MULTI-TENANT SHIPYARD OPERATIONS.

SEC. 02 T 37 N. RGE. 2E W.M.
FAIRHAVEN NEIGHBORHOOD,
CITY OF BELLINGHAM
COUNTY OF WHATCOM
DATUM: 1983 WASHINGTON STATE PLANE NORTH

ADDRESS: PORT OF BELLINGHAM
9001 ROEDER AVENUE
BELLINGHAM, WA 98227-1677

8/25/2014
Whatcom County Economic Development Investment (EDI) Program
Roving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

ATTACHMENT C
Contingency Agreement
Attachment C

CONTINGENCY AGREEMENT

Port of Bellingham and All American Marine Inc.

1. **PARTIES**

The parties to this Agreement are the Port of Bellingham (Applicant) and All American, Inc. (Business)

2. **PURPOSE**

The purpose of this Agreement is to clarify the intentions of the parties regarding the completion of All American Marine Expansion Project. The project is the construction by the Applicant of a new fabrication building at 207 Harris Avenue, Bellingham to be leased to the Business.

3. **BACKGROUND**

The project includes construction of a 39,000 square foot pre-engineered steel building with 3 hangar-style doors and including a main fabrication area in 3 bays, and all related on-site improvements including parking. The project also includes: (1) Fire sprinkler system throughout, (2) minimal heating, lighting & power to most of the building (3) electrical system upgrades required for relocating the overhead 3-phase power to underground, (4) re-service to the Arrowac Building, and the new building service, (4) site grading, base and paving, (5) new storm drainage and treatment system, (6) rerouting all water mains, fire lines, sanitary sewer main, fuel line, and HTCI & phone lines, and (7) demolition of the existing Warehouse #9 building and concrete floor. The exact project elements will be refined through the final design process.

4. **AGREEMENT**

a) The Applicant agrees to construct the required public improvements providing that EDI financing is approved.

b) The Business projects the following number of permanent full-time jobs will be created in five years as a result of the public facilities project: 27 full-time jobs.

c) The Business estimates it will provide $1,775,000 initially in capital investment for plant and equipment.

d) The Business agrees to contact the WorkSource Whatcom Career Center for assistance in filling new positions.

e) The Business agrees to provide the applicant with employment and investment data as requested by the Whatcom County EDI program.

f) If Applicable, this section must also contain a list of any public and/or private contributions to the public facilities project, such as cash contribution or donated land.
5. CONTINGENCY

This Agreement is contingent upon receipt of EDI funds by the Applicant and is intended to meet the first level of convincing evidence of private development as required by EDI.

All parties must sign the Agreement.

Port of Bellingham

Rob Fix
Executive Director

All American Marine, Inc.

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

EDI Technical Advisory Committee
PROJECT SCORING SHEET

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

**ECONOMIC IMPACT**

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

**ENVIRONMENT AND QUALITY OF LIFE**

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

**SAFETY AND PUBLIC SUPPORT**

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

**FISCAL CONSIDERATIONS**

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

Last Updated: 11/18/13
Whatcom County Economic Development Investment (EDI) Program
Revolving Loan and Grant Program to Encourage Creation or Retention of Private Sector Jobs

PROJECT SCORING

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

**PROJECT READINESS**

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

**Total Number of Boxes Checked**

$x_3$ x$2$ x$1$

**Multiplied By Associated Points**

**TOTAL SCORING POINTS**

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

**Bonus Points:**

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

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

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

**SCORING ASSESSMENT**

**Scoring Range of Points**

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

Last Updated: 11/18/13
Notes of EDI Board Meeting

September 8, 2015, 2:00 p.m.

Board Members present at Meeting:
- Jack Louws, County Executive
- Michael McAuley, Port of Bellingham
- Jim Kyle, Fishing Industry
- David Franklin, At-Large
- Jeff McLure, PUD #1
- Guy Occhiogrosso, Chamber of Commerce
- Carl Weimer, County Council Chair
- Aubrey Stargell, Timber Industry
- Bob Bromley, Mayor, City of Sumas
- Scott Korthuis, Mayor, City of Lynden
- Stephen A. Jones, Agricultural Industry

Board Members absent:
- Kelli Linville, Mayor, City of Bellingham (Brian Heinrich attended as representative)
- Jeff Kochman, NWEC

Staff present:
- Suzanne Mildner (Board Clerk, Executive Office)
- Tyler Schroeder, (Special Projects Manager, Executive Office)

Guests present:
- From the Port of Bellingham: Commissioner Dan Robbins, Executive Director Rob Fix, and Dodd Snodgrass, Economic Development Specialist;
- Greg Young, City Administrator, Ferndale;
- Bob Wilson, Whatcom Council of Governments & NWEC;
- Steve Jilk, PUD #1;
- From Mt. Baker Foothills Chamber of Commerce: Russ Angus, Carole McDonald and Lou Piotrowski.

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

2. EDI Fund Review – Status as of 7/31/15
A review of the Public Utilities Improvement/EDI Fund was given as of 7/31/15. Executive Louws briefly went over the revenues, expenditures and commitments noted on the spreadsheet. The fund balance is currently approximately $3.1-million, with another roughly $1.4-million in revenues expected by the end of the year. The current commitments section on the spreadsheet was reviewed. Mayor Korthuis asked for an estimation of completion dates on the commitments. It is expected that most of the projects will be paid out within the next 12 months or so. As for the affordable housing project, it is an ongoing project with no sunset date.

Executive Louws commented that there currently exists sufficient funding to accommodate the amount being requested by the Port of Bellingham today. However this would bring the balance of the fund very low, and he asks that the board members keep in mind there may be other projects that arise that are worthy of consideration as well.

3. Reallocation of committed funds: Foothills Broadband project.
Executive Louws asked for a summary of the status of this project, which has been on the fund “commitment” list for several years now. Steve Jilk, PUD #1, addressed the group and gave a brief history of the project, the involvement of NoaNet as well as PUD’s role. Since NoaNet dropped this project a couple of years ago, other funding partners have been sought. The biggest challenge now is finding support to pay for the design/engineering work that is needed to get the tower construction ready to go to bid. Preliminary estimates for this work are approximately $200,000. The Mt. Baker Foothills Chamber group have been assisting in trying to find the needed funding, however currently this project is on hiatus. Mr. Jilk said the PUD is
still committed to working on this project, and asked if the $217,500 EDI commitment could be used for the needed design work. Executive Louws said that substantially changes the original "ask", and would require a new application submitted to the EDI Board for consideration. For now the commitment will stand as is, until further notice.

4. Application from Port of Bellingham
Executive Louws introduced the Application from the Port of Bellingham, noted that it had been reviewed by the EDI Technical Advisory Committee, and invited Rob Fix to address the board with a summary of this project and the EDI fund request. Mr. Fix spoke about All American Marine's boat building/manufacturing business and the role of this company as an employer in the community. He outlined the basics of the project, which involves the construction of an expanded production facility, ultimately resulting in the creation of 27 new high-paying jobs in Fairhaven. Other funding sources are a CERB loan, as well as Port financing. Some preliminary planning and design work has begun already, and the estimated time window for completion of the project is August 2016 through March 2017. This includes another project that the Port hopes to do alongside this one: pier expansion (approx. $7-million cost). When asked if the Port could complete the project without EDI investment, the answer was that without EDI money, it may not go forward. Mr. Franklin asked whether a change in the fund formula would work; in other words, if the $1-million grant request were dropped, and the loan was changed to a $3-million loan? Mr. Fix said that the grant portion is critical to the success of the project. Any change to the application would need to be in the loan amount only. Further discussion continued on the merits of the project.

Councilmember Weimer raised the issue of the review process, specifically whether it would be beneficial in future to invite multiple project applications for review at one time during the year, thereby allowing a level playing field and opportunity for the board to make decisions for the best use of this fund for economic development. Are there currently other projects in the community that have not yet had the opportunity to come forward with an application? Executive Louws stated he's aware there is some potential for projects coming from the PUD, and possibly Ferndale, in the coming year.

Jim Kyle expressed his support for this project, and let the board know that as well as being an EDI Board member representing the fishing industry, he is a member of a relatively new group called the Working Waterfront Coalition. He strongly urges the board to recommend approval of this project. Other board members offered up support. Executive Louws then called for a motion. Stephen Jones moved to recommend support of the EDI Board for Council approval of EDI funding to the Port of Bellingham in the amount of $1,000,000 as a grant and $2,000,000 as a loan. The motion was seconded by Jeff McLure. A vote was taken and the motion passed unanimously 11-0. There being no further business, the meeting adjourned at 3:05 p.m.

NEXT MEETING DATE: TBD

Respectfully Submitted,
Suzanne Mildner,
Clerk, EDI Board
Whatcom County Executive Office
## Whatcom County
### Rural Sales Tax
#### Report as of 07/31/2015

### Revenue

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<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
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<tbody>
<tr>
<td>Sales Tax Revenue</td>
<td>(23,571,763.28)</td>
<td>(2,768,821.35)</td>
<td>(2,867,602.33)</td>
<td>(3,046,640.15)</td>
<td>(3,247,489.85)</td>
<td>(3,325,480.73)</td>
<td>(3,271,701.54)</td>
<td>(40,752,497.28)</td>
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<tr>
<td>Grant Revenue</td>
<td>(50,000.00)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>(50,000.00)</td>
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<tr>
<td>Loan Principal Payments</td>
<td>(357,880.00)</td>
<td>(252,178.00)</td>
<td>(256,961.00)</td>
<td>(259,801.00)</td>
<td>(609,883.00)</td>
<td>(964,927.00)</td>
<td>(312,007.00)</td>
<td>(3,012,247.00)</td>
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<tr>
<td>Interest Earnings</td>
<td>(144,724.00)</td>
<td>(65,805.00)</td>
<td>(61,902.00)</td>
<td>(57,462.00)</td>
<td>(62,066.00)</td>
<td>(69,207.00)</td>
<td>(39,765.00)</td>
<td>(499,641.00)</td>
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<tr>
<td><strong>Total Revenue</strong></td>
<td>(24,124,177.28)</td>
<td>(3,086,084.35)</td>
<td>(3,184,665.33)</td>
<td>(3,365,503.15)</td>
<td>(3,919,238.89)</td>
<td>(4,359,614.78)</td>
<td>(2,274,503.54)</td>
<td>(44,314,385.28)</td>
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### Expenditures

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<th></th>
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<th></th>
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</thead>
<tbody>
<tr>
<td>Capital Facilities Exp (30%)</td>
<td>4,933,748.04</td>
<td>1,386,572.61</td>
<td>2,777,427.05</td>
<td>412,647.77</td>
<td>1,539,891.16</td>
<td>156,430.34</td>
<td>1,008,664.85</td>
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<tr>
<td>Other Agency Loans (35%)</td>
<td>4,698,696.00</td>
<td>-</td>
<td>536,348.88</td>
<td>1,149,865.00</td>
<td>454,044.75</td>
<td>49,341.70</td>
<td>4,160,000.00</td>
<td>11,046,296.33</td>
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<td>Grant Expenditures (35%)</td>
<td>5,113,733.59</td>
<td>374,011.97</td>
<td>355,406.56</td>
<td>899,058.99</td>
<td>392,973.65</td>
<td>199,257.80</td>
<td>2,080,867.28</td>
<td>9,272,669.34</td>
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<tr>
<td><strong>Total Expenditures</strong></td>
<td>14,744,178.23</td>
<td>1,760,584.58</td>
<td>3,647,242.49</td>
<td>2,460,571.36</td>
<td>2,386,909.46</td>
<td>315,029.84</td>
<td>7,219,532.13</td>
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### Cash Balance/Year

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<tbody>
<tr>
<td>Cash Balance/Year</td>
<td>(9,375,999.05)</td>
<td>(1,325,499.77)</td>
<td>462,377.16</td>
<td>(805,331.79)</td>
<td>(1,532,327.39)</td>
<td>(4,044,584.94)</td>
<td>4,945,028.09</td>
<td>(11,780,337.19)</td>
</tr>
</tbody>
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### Cash Balance Allocation

#### Expenditures to

<table>
<thead>
<tr>
<th></th>
<th>Sales Tax Revenue</th>
<th>Expenditure</th>
<th>Grant Revenue</th>
<th>Principal/Interest Payments</th>
<th>Balance</th>
<th>Committed*</th>
<th>Adjusted Balance</th>
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<tbody>
<tr>
<td>Capital Facilities Expend (30%)</td>
<td>12,225,749.18</td>
<td>12,215,382.42</td>
<td>50,000.00</td>
<td>-</td>
<td>60,366.76</td>
<td>100,050.91</td>
<td>(39,864.15)</td>
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<tr>
<td>Other Agency Loans (35%)</td>
<td>14,263,374.05</td>
<td>11,046,296.33</td>
<td>-</td>
<td>-</td>
<td>3,217,077.72</td>
<td>4,745,074.67</td>
<td>(1,527,996.95)</td>
</tr>
<tr>
<td>Grant Expenditures (35%)</td>
<td>14,263,374.05</td>
<td>9,272,669.34</td>
<td>-</td>
<td>-</td>
<td>4,991,004.71</td>
<td>3,760,832.72</td>
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<td><strong>Total</strong></td>
<td>40,752,497.28</td>
<td>32,534,048.09</td>
<td>50,000.00</td>
<td>-</td>
<td>8,268,449.19</td>
<td>8,605,758.30</td>
<td>(337,309.11)</td>
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<td>Principal/Interest Payments</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3,511,888.00</td>
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<tr>
<td><strong>Adjusted Total</strong></td>
<td>40,752,497.28</td>
<td>32,534,048.09</td>
<td>50,000.00</td>
<td>-</td>
<td>11,780,337.19</td>
<td>8,605,758.30</td>
<td>3,174,578.89</td>
</tr>
</tbody>
</table>

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

### Administration and EDI Proposed Commitments

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Total Approved</th>
<th>Capital Facilities Fund</th>
<th>EDI Loan</th>
<th>EDI Grant Fund</th>
<th>Total Remaining Commitments</th>
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</thead>
<tbody>
<tr>
<td>Data Center Generator &amp; UPS (332207)</td>
<td>245,000.00</td>
<td>37,050.91</td>
<td>-</td>
<td>-</td>
<td>37,050.91</td>
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<tr>
<td>Ferndale Affordable Housing (332213)</td>
<td>1,225,000.00</td>
<td>-</td>
<td>550,074.67</td>
<td>6,500.00</td>
<td>566,574.67</td>
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Total Capital Facilities: 5,237,142.00

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Total Grant: 5,554,394.00

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Total Loan: 7,419,675.00

Total: 17,211,111.00
### WHATCOM COUNTY COUNCIL AGENDA BILL

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**TITLE OF DOCUMENT:** Resolution regarding grant match for East Whatcom Regional Resource Center expansion project

**ATTACHMENTS:** Memorandum, Resolution, Grant Award letter from WA Dept. of Commerce

**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.)

Resolution in support of $300,000 commitment from Whatcom County as local match to the Washington State Department of Commerce CDBG grant for the East Whatcom Regional Resource Center expansion 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: Whatcom County Council Members
From: Whatcom County Executive Jack Louws
Subject: East Whatcom Regional Resource Center Expansion Project
        County match for CDBG Grant
Date: October 2, 2015

At the County Council's May 12th meeting, a Resolution was approved allowing the County administration to sign and submit a grant application to the Washington State Department of Commerce for a CDBG grant in the amount of $750,000.00 for allocation to the East Whatcom Regional Resource Center expansion project. Since that time, Whatcom County has received notice of the grant award – a copy of the award letter is attached for your reference. By way of reminder, this is a pass-through grant which will be administered by the Opportunity Council.

You may recall earlier discussions regarding the allocation of $300,000 as a local match for the grant funds. As you'll see in the grant award letter, this State funding is being offered under the condition that we provide evidence that the project budget has been secured. Accordingly, we have prepared a Resolution for your consideration and approval which outlines the county's commitment to the $300,000 towards the project.

Additionally, the Opportunity Council is in the process of obtaining written confirmation from additional funding sources. This additional funding, together with the State grant and the county's match, will provide the estimated full project funding needed, which totals $1,550,000. This project will provide for the construction of a multi-use building expansion for the East Whatcom Regional Resource Center.

Please contact me or Tyler Schroeder if you should have any questions about this project.

Thank you.

/encl
PROPOSED BY: County Executive
INTRODUCED: October 13, 2015

Resolution 2015-________________

AUTHORIZING THE ALLOCATION OF REET I FUNDING TO SUPPORT THE CONSTRUCTION OF A MULTI-USE BUILDING EXPANSION AT THE EAST WHATCOM REGIONAL RESOURCE CENTER

WHEREAS, the Opportunity Council, together with Whatcom County, the East Whatcom Community Council and other interested citizens, created a proposal that will add a new multi-use building at the East Whatcom Regional Resource Center for youth recreation activities and other community gatherings and for a food bank aggregation and redistribution center to support hunger relief efforts in the east Whatcom foothills; and

WHEREAS, on May 12, 2015, the Whatcom County Council approved a Resolution which authorized the County Administration to submit a Community Development Block Grant (CDBG) General Purpose Grant application to the Washington State Department of Commerce for a $750,000 grant to assist with the construction of the multi-use building; and

WHEREAS, the County Administration submitted the grant proposal to the Washington State Department of Commerce and has subsequently received notification of a CDBG award of $750,000 contingent upon Whatcom County’s commitment of $300,000 in matching funds; and

WHEREAS, the Opportunity Council has pledged its commitment to securing $500,000 or more in additional matching funds, contingent upon Whatcom County’s and WA Commerce’s commitments of $300,000 and $750,000, respectively;

NOW, THEREFORE BE IT RESOLVED, that the Whatcom County Council hereby authorizes the County Administration to allocate $300,000 in REET I funds to support the design and construction of the proposed facility; and
BE IT FURTHER RESOLVED, that the Whatcom County Council authorizes the County Executive to proceed with the execution of an agreement with the Washington State Department of Commerce for the $750,000 CDBG award; and

BE IT FURTHER RESOLVED, that the Whatcom County Council authorizes the County Executive to proceed with the execution of an agreement with the Opportunity Council for the funding, design, construction and operation of the proposed facility.

APPROVED this ________ day of October, 2015.

ATTEST:

Dana Brown-Davis,
Clerk of the Council

Carl Weimer,
Council Chair

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

Daniel J. Gibson
Civil Deputy Prosecutor
August 27, 2015

Mr. Jack Louws, County Executive
Whatcom County
311 Grand Avenue - #108
Bellingham, WA 98225

Dear Mr. Louws:

I am pleased to inform you that Whatcom County has been selected by Commerce to receive up to $750,000 in federal Community Development Block Grant (CDBG) funds. This award is based on the jurisdiction's CDBG General Purpose Grant application for construction of a food bank distribution center at the East Whatcom Regional Resource Center.

Prior to grant contract execution, this letter allows you to begin incurring costs not to exceed ten percent of your award as of August 27, 2015, for only the following activities:

- Administration including staffing, travel and training.
- Review of environmental laws and authorities, including Section 106 of the National Historic Preservation Act of 1996.
- Preliminary engineering design work and consultations needed for completion of the environmental review.
- Executing agreements with subrecipients, partners or professional services consultants for any of the above activities.

CDBG procurement requirements must be followed before hiring professional services or contractors to be funded by this CDBG award. These requirements are described in Sections 5 and 7 of the 2015 CDBG Management Handbook, which is also available electronically at www.commerce.wa.gov/cdbg. The handbook will be distributed on a USB flash drive at the 2015 CDBG contract management workshops.

CDBG-specific compliance with National Environmental Policy Act (NEPA) must be completed before any construction bid advertising or property acquisition activity can occur. These procedures are described in Section 6 of the CDBG Management Handbook.
Mr. Jack Louws  
August 27, 2015  
Page 2

Eligible costs will be reimbursed by Commerce after a grant contract between the jurisdiction and Commerce is executed and the environmental review is complete (see enclosure for further explanation). All costs to be reimbursed must comply with applicable state and federal requirements.

CDBG contract management workshops are scheduled for October 13, 2015 in Olympia and October 19, 2015 in Moses Lake. The jurisdiction’s project manager and consultant directly engaged in the project are to attend one of the workshops. Registration materials for this free workshop will be forthcoming.

Before Commerce signs the grant contract, the county must:

- Provide documentation all other project funding is secured, and
- Develop and adopt a policy to reduce greenhouse gas emissions.

If your project is not ready to proceed, resulting in the contract’s execution being delayed over 90 days from the date of this letter, the CDBG award may be rescinded with an invitation to reapply.

Kaaren Roe has been assigned as your Project Manager. If you have any questions about this letter or grant award, please contact Kaaren at (360) 725-3018 or kaaren.roe@commerce.wa.gov.

I congratulate you and others for your efforts thus far. We look forward to working with you on this worthwhile project.

Sincerely,

Mark K. Barkley  
Assistant Director

Enclosure

cc: Suzanne Mildner, Grant Coordinator
### WHATCOM COUNTY COUNCIL AGENDA BILL

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**TITLE OF DOCUMENT:** Recreation and Conservation Office Funding Board Project Agreement-Plantation Indoor Range HVAC Replacement

**ATTACHMENTS:** Project Agreement

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<th>( ) Yes</th>
<th>( X ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Request authorization for the County Executive to enter into a project agreement (project #14-1127D) with the Washington State Recreation and Conservation Office for grant funding in the amount of $144,900 for replacement of the HVAC system for the indoor range at the Plantation Rifle Range.

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**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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## WHATCOM COUNTY CONTRACT INFORMATION SHEET

**Originating Department:** Parks & Recreation  
**Contract or Grant Administrator:** Christ Thomsen  
**Contractor’s / Agency Name:** WA State Recreation & Conservation Office

### Contract Details
- **Is this a New Contract?** Yes □ No □  
- **Does contract require Council Approval?** Yes □ No □  
- **Is this a grant agreement?** Yes □ No □  
- **Is this contract grant funded?** Yes □ No □  
- **Is this the contract the result of a RFP or Bid process?** Yes □ No □  
- **Is this agreement excluded from E-Verify?** Yes □ No □  

**Contract Amount:** $144,900.00  
**This Amendment Amount:**  
**Total Amended Amount:**  

### Summary of Scope
- State RCO grant project agreement for replacement of the HVAC system in the indoor range at the Plantation Rifle Range.

### Contract Routing
1. **Prepared by:** MGM  
2. **Attorney signoff:**  
3. **AS Finance reviewed:**  
4. **IT reviewed (if IT related):**  
5. **Contractor signed:**  
6. **Submitted to Exec.:**  
7. **Council approved (if necessary):**  
8. **Executive signed:**  
9. **Original to Council:**

### Expiration Date
- **Term of Contract:** 14 Months  
- **Expiration Date:** 12/31/16

### Certification
- **Last Edited:** 060414
Funding Board Project Agreement

Project Sponsor: Whatcom County Parks & Recreation
Project Title: Plantation Indoor Range HVAC Replacement
Project Number: 14-1127D
Approval Date: 7/1/2015

A. PARTIES OF THE AGREEMENT
This Project Agreement (Agreement) is entered into between the State of Washington by and through the Recreation and Conservation Funding Board (RCFB or funding board) and the Recreation and Conservation Office, P.O. Box 40917, Olympia, Washington 98504-0917 and Whatcom County by and through the Whatcom County Parks & Recreation (sponsor), 3373 Mount Baker Hwy, Bellingham, WA 98226 and shall be binding on the agents and all persons acting by or through the parties.

B. PURPOSE OF AGREEMENT
This Agreement sets out the terms and conditions by which a grant is made from the Firearms Range Account of the State of Washington. The grant is administered by the Recreation and Conservation Office (RCO) to the sponsor for the project named above per the director’s authority granted in RCW 79A.25.020.

C. DESCRIPTION OF PROJECT
Whatcom County will replace the HVAC unit at the Plantation Indoor Range Facility. The primary recreational opportunity that this project will enhance is indoor public recreational shooting activities.

D. PERIOD OF PERFORMANCE
The period of performance begins on September 1, 2015 (project start date) and ends on December 31, 2016 (project end date). No allowable cost incurred before or after this period is eligible for reimbursement unless specifically provided for by written amendment or addendum to this Agreement or specifically provided for by WAC Titles 286, 420; or RCFB and/or SRFB policies published in RCO manuals as of the effective date of this agreement.

The sponsor must request extensions of the period of performance at least 60 days before the project end date.

The sponsor has obligations beyond this period of performance as described in Section E: On-going Obligations.

E. ON-GOING OBLIGATIONS
For this development and renovation project, the sponsor’s on-going obligations shall be as described in WAC 286-30 and shall survive the completion/termination of this Project Agreement unless otherwise identified in the Agreement or as approved by the funding board. It is the intent of the funding board’s conversion policy (see Section 24. Restriction of Conversion) that all lands acquired and/or facilities and areas developed, renovated, or restored with funding assistance remain in the public domain in perpetuity.

F. PROJECT FUNDING
The total grant award provided by the funding board for this project shall not exceed $144,900.00. The funding board shall not pay any amount beyond that approved for grant funding of the project and within the funding board’s percentage as identified below. The sponsor shall be responsible for all total project costs that exceed this amount. The minimum matching share provided by the sponsor shall be as indicated below:

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Dollar Amount</th>
<th>Source of Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>RCFB - Firearms &amp; Archery Range Rec.</td>
<td>49.98%</td>
<td>$144,900.00</td>
</tr>
<tr>
<td>Project Sponsor</td>
<td>50.02%</td>
<td>$145,000.00</td>
</tr>
<tr>
<td>Total Project Cost</td>
<td>100.00%</td>
<td>$289,900.00</td>
</tr>
</tbody>
</table>

G. FEDERAL FUND INFORMATION
This Agreement is not a federal subaward. This Agreement is funded with a grant from the State of Washington.
H. RIGHTS AND OBLIGATIONS INTERPRETED IN LIGHT OF RELATED DOCUMENTS
All rights and obligations of the parties under this Agreement shall be interpreted in light of the information provided in
the sponsor’s application and the project summary under which the Agreement has been approved as well as
documents produced in the course of administering the Agreement, including the eligible scope activities and
milestones report incorporated herein by reference. Provided, to the extent that information contained in such
documents is inconsistent with this Agreement, it shall not be used to vary the terms of the Agreement, unless those
terms are shown to be subject to an unintended error or omission. This “Agreement” as used here and elsewhere in
this document, unless otherwise specifically stated, has the meaning set forth in the definition of the Standard Terms
and Conditions.

I. AMENDMENTS MUST BE SIGNED IN WRITING
Except as provided herein, no amendment/deletions of any of the terms or conditions of this Agreement will be
effective unless provided in writing and signed by both parties. Except, extensions of the period of performance and
minor scope adjustments need only be signed by RCO’s director or designee, unless the consent of the sponsor to an
extension is required by its auditing policies, regulations, or legal requirements, in which case, no extension shall be
effective until so consented.

J. COMPLIANCE WITH APPLICABLE STATUTES, RULES, AND RCFB-SRFB POLICIES
This agreement is governed by, and the sponsor shall comply with, all applicable state and federal laws and
regulations, including any applicable RCFB and/or SRFB policies published in RCO manuals as of the effective date
of this agreement, all of which are incorporated herein by this reference as if fully set forth.

K. SPECIAL CONDITIONS
None

L. AGREEMENT CONTACTS
The parties will provide all written communications and notices under this Agreement to the mail address or the email
address listed below if not both:

<table>
<thead>
<tr>
<th>Project Contact</th>
<th>RCFB</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Jerry Warren</td>
<td>Recreation and Conservation Office</td>
</tr>
<tr>
<td>Title: Lead Park Ranger</td>
<td>Natural Resources Building</td>
</tr>
<tr>
<td>Address: 3373 Mt Baker Hwy Bellingham, WA 98226</td>
<td>PO Box 40917</td>
</tr>
<tr>
<td>Email: <a href="mailto:jwarren@co.whatcom.wa.us">jwarren@co.whatcom.wa.us</a></td>
<td>Olympia, Washington 98504-0917</td>
</tr>
</tbody>
</table>

These addresses shall be effective until receipt by one party from the other of a written notice of any change.

M. ENTIRE AGREEMENT
This Agreement, with all amendments and attachments, constitutes the entire Agreement of the parties. No other
understandings, oral or otherwise, regarding this Agreement shall exist or bind any of the parties.

N. EFFECTIVE DATE
This Agreement, for project 14-1127D, shall be subject to the written approval of the RCO’s authorized representative
and shall not be effective and binding until the date signed by both the sponsor and the RCO, whichever is later
(Effective Date). Reimbursements for eligible and allowable costs incurred within the period of performance identified
in Section D: Period of Performance are allowed only when this Agreement is fully executed and an original is received
by RCO.
The sponsor has read, fully understands, and agrees to be bound by all terms and conditions as set forth in this Agreement. The signators listed below represent and warrant their authority to bind the parties to this Agreement.

Whatcom County Parks & Recreation

By: ___________________________ Date: ___________________  
Name: (printed) Jack Louws  
Title: Whatcom County Executive

State of Washington, Recreation Conservation Office
On behalf of the Recreation and Conservation Funding Board (RCFB or funding board)

By: ___________________________ Date: ___________________  
Kaleen Cottingham  
Director  
Recreation and Conservation Office

Pre-approved as to form:

By: ___________________________ Date: July 20, 2015  
is/  
Assistant Attorney General

[Signature]
Elizabeth E. Gallery - As to Form  
Civil Deputy Prosecutor  
Whatcom County
# Standard Terms and Conditions of the Project Agreement

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SECTION 1. CITATIONS, HEADINGS AND DEFINITIONS

A. Any citations referencing specific documents refer to the current version at the date of project Agreement and/or any revisions in the future.

B. Headings used in this Agreement are for reference purposes only and shall not be considered a substantive part of this Agreement.

C. Definitions. As used throughout this Agreement, the following terms shall have the meaning set forth below:

acquisition project - A project that purchases or receives a donation of fee or less than fee interests in real property. These interests include, but are not limited to, conservation easements, access/trail easements, covenants, water rights, leases, and mineral rights.

Agreement or Project Agreement - The document entitled “Project Agreement” accepted by all parties to the present transaction, including without limitation these Standard Terms and Conditions, all attachments, addendums, and amendments, and any intergovernmental agreements or other documents that are incorporated into the Project Agreement subject to any limitations on their effect.

applicant - Any party that meets the qualifying standards, including deadlines, for submission of an application soliciting a grant of funds from the funding board.

application - The documents and other materials that an applicant submits to the RCO to support the applicant’s request for grant funds; this includes materials required for the “Application” in the RCO’s automated project information system, and other documents as noted on the application checklist including but not limited to legal opinions, maps, plans, evaluation presentations and scripts.

C.F.R. - Code of Federal Regulations

contractor - An entity that receives a contract from a sponsor. A contract is a legal instrument by which a non-Federal entity (sponsor) purchases property or services to carry out the project or program under a Federal award. A contractor is not the same as the sponsor or subcontractor. A contract is for the purpose of obtaining goods and services for the non-Federal entity’s (sponsor’s) own use and creates a procurement relationship with the contractor (2 C.F.R § 200.23 (2013)).

devolution project - A project that results in the construction of or work resulting in new elements, including but not limited to structures, facilities, and/or materials to enhance outdoor recreation resources.

director - The chief executive officer of the Recreation and Conservation Office or that person’s designee.

education project - A project that provides information, education, and outreach programs for the benefit of outdoor recreationists.

education and enforcement project - A project that provides information, education, and outreach programs; encourages responsible recreational behavior, and may provide law enforcement for the benefit of outdoor recreationists.

equipment - Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the sponsor or $5,000 (2 C.F.R. § 200.33 (2013)).

funding board - The board that authorized the funds in this Agreement, either the Recreation and Conservation Funding Board (RCFB) created under chapter 79A.25.110 RCW, or the Salmon Recovery Funding Board (SRFB) created under chapter 77.85.110 RCW.

indirect cost - Costs incurred for a common or joint purpose benefiting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved (2 C.F.R. § 200.66 (2013)).

landowner agreement - An agreement that is required between a sponsor and landowner for projects located on land not owned, or otherwise controlled, by the sponsor.

maintenance project - A project that maintains existing areas and facilities through repairs and upkeep for the benefit of outdoor recreationists.

maintenance and operation project - A project that maintains existing areas and facilities through repairs, upkeep, and routine servicing for the benefit of outdoor recreationists.

match or matching share - The portion of the total project cost provided by the sponsor.

milestone - An important event with a defined date to track an activity related to implementation of a funded project and monitor significant stages of project accomplishment.

pass-through entity - A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program (2 C. F. R. § 200.74 (2013)). If this Agreement is a federal subaward, RCO is the pass-through entity.

period of performance - The time during which the sponsor may incur new obligations to carry out the work authorized under this Agreement (2 C.F.R. § 200.77 (2013)).

planning (RCFB projects only) - A project that results in one or more of the following: a study, a plan, construction plans and specifications, and permits to increase the availability of outdoor recreational resources.

planning (SRFB projects only) - A project that results in a study, assessment, project design, or inventory.

pre-agreement cost - A project cost incurred before the period of performance.
project - An undertaking that is, or may be, funded in whole or in part with funds administered by RCO on behalf of the funding board.

project cost - The total allowable costs incurred under this Agreement and all required match share and voluntary committed matching share, including third-party contributions (2 C.F.R. § 200.83 (2013)).

RCO - Recreation and Conservation Office - The state office that provides administrative support to the Recreation and Conservation Funding Board and Salmon Recovery Funding Board. RCO includes the director and staff, created by Chapters 79A.25.110 and 79A.25.150 RCW and charged with administering this Agreement by Chapters 77.85.110 and 79A.25.240 RCW.

reimbursement - RCO's payment of funds from eligible and allowable costs that have already been paid by the sponsor per the terms of the Agreement.

renovation project - A project intended to improve an existing site or structure in order to increase its useful service life beyond original expectations or functions. This does not include maintenance activities to maintain the facility for its originally expected useful service life.

restoration project - A project that brings a site back to its historic function as part of a natural ecosystem or improves the ecological functionality of a site.

RCW - Revised Code of Washington

RTP - Recreational Trails Program - A federal grant program administered by RCO that allows for the development and maintenance of backcountry trails.

secondary sponsor - one of two or more eligible organizations that sponsors a grant-funded project. Of these two sponsors, only one - the primary sponsor - may be the fiscal agent.

sponsor or primary sponsor - The eligible applicant who has been awarded a grant of funds and is bound by this executed Agreement, includes its officers, employees, agents and successors. For projects funded with federal money, the sponsor is a subrecipient, which is a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (2 C.F.R. § 200.93 (2013)).

subaward - An award provided by a pass-through entity to a subrecipient to carry out part of a Federal program. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract (2 C.F.R. § 200.92 (2013)). A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient (2 C.F.R. § 200.330 (2013)). If this Agreement is a Federal subaward, the subaward amount is the grant program amount in Section F: Project Funding.

subrecipient - Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency (2 C.F.R. § 200.93 (2013)). If this Agreement is a Federal subaward, the sponsor is the subrecipient.

WAC - Washington Administrative Code.

SECTION 2. PERFORMANCE BY THE SPONSOR
The sponsor and secondary sponsor where applicable, shall undertake the project as described in this Agreement, the sponsor's application, and in accordance with the sponsor's proposed goals and objectives described in the application or documents submitted with the application, all as finally approved by the funding board. All submitted documents are incorporated by this reference as if fully set forth herein. Also see Section 36: Order of Precedence.

Timely completion of the project and submission of required documents, including progress and final reports, is important. Failure to meet critical milestones or complete the project, as set out in this Agreement, is a material breach of the Agreement.

SECTION 3. ASSIGNMENT
Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the sponsor without prior written consent of the RCO.

SECTION 4. RESPONSIBILITY FOR PROJECT
While the funding board undertakes to assist the sponsor with the project by providing a grant pursuant to this Agreement, the project itself remains the sole responsibility of the sponsor. The funding board undertakes no responsibilities to the sponsor, a secondary sponsor, or to any third party, other than as is expressly set out in this Agreement. The responsibility for the implementation of the project is solely that of the sponsor, as is the responsibility for any claim or suit of any nature by any third party related in any way to the project. When a project is sponsored by more than one entity, any and all sponsors are equally responsible for the project and all post-completion stewardship responsibilities.

SECTION 5. INDEMNIFICATION
The sponsor shall defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the actual or alleged acts, errors, omissions or negligence of, or the breach of any obligation under this Agreement by the sponsor or the sponsor's agents, employees, contractors, subcontractors, or vendors, of any tier, or any other persons for whom the sponsor may be legally liable.

Provided that nothing herein shall require a sponsor to defend or indemnify the State against and hold harmless the State from claims, demands or suits based solely upon the negligence of the State, its employees and agents for whom the State is vicariously liable.

Provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the sponsor or the sponsor's
agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the Sponsor is legally liable, and (b) the State its employees and agents for whom it is vicariously liable, the indemnity obligation shall be valid and enforceable only to the extent of the sponsor’s negligence or the negligence of the sponsor’s agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the sponsor may be legally liable.

This provision shall be included in any Agreement between sponsor and any contractors, subcontractors and vendors, of any tier.

The sponsor shall also defend, indemnify, and hold the State and its officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the sponsor or the sponsor’s agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the sponsor may be legally liable, in performance of the Work under this Agreement or arising out of any use in connection with the Agreement of methods, processes, designs, information or other items furnished or communicated to State, its agents, officers and employees pursuant to the Agreement; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from State’s, its agents’, officers’ and employees’ failure to comply with specific written instructions regarding use provided to State, its agents, officers and employees by the sponsor, its agents, employees, contractors, subcontractors or vendors, of any tier, or any other persons for whom the sponsor may be legally liable.

The sponsor specifically assumes potential liability for actions brought by the sponsor’s own employees or its agents against the State and, solely for the purpose of this indemnification and defense, the sponsor specifically waives any immunity under the state industrial insurance law, RCW Title 51.

The RCO is included within the term State, as are all other agencies, departments, boards, or other entities of state government.

SECTION 6. INDEPENDENT CAPACITY OF THE SPONSOR

The sponsor and its employees or agents performing under this Agreement are not officers, employees or agents of the funding board or RCO. The sponsor will not hold itself out as nor claim to be an officer, employee or agent of RCO, a funding board or of the state of Washington, nor will the sponsor make any claim of right, privilege or benefit which would accrue to an employee under Chapters 41.08 or 28B RCW.

The sponsor is responsible for withholding and/or paying employment taxes, insurance, or deductions of any kind required by federal, state, and/or local laws.

SECTION 7. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, RCO may, in its sole discretion, by written notice to the sponsor terminate this Agreement if it is found after due notice and examination by RCO that there is a violation of the Ethics in Public Service Act, RCW 42.52; or any similar statute involving the sponsor in the procurement of, or performance under, this Agreement.

In the event this Agreement is terminated as provided herein, RCO shall be entitled to pursue the same remedies against the sponsor as it could pursue in the event of a breach of the Agreement by the sponsor. The rights and remedies of RCO provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

SECTION 8. COMPLIANCE WITH APPLICABLE LAW

The sponsor will implement the Agreement in accordance with applicable federal, state, and local laws, regulations and RCO and funding board policies regardless of whether the sponsor is a public or non-public organization.

The sponsor shall comply with, and RCO is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies, including, but not limited to: State Environmental Policy Act; Industrial Insurance Coverage; Architectural Barriers Act; permits (shoreline, Hydraulics Project Approval, demolition); land use regulations (critical areas ordinances, Growth Management Act); federal and state safety and health regulations (Occupational Safety and Health Administration/Washington Industrial Safety and Health Act); and Buy American Act.

A. Nondiscrimination Laws. The sponsor shall comply with all applicable federal, state, and local nondiscrimination laws and/or policies, including but not limited to: the Americans with Disabilities Act; Civil Rights Act; and the Age Discrimination Act. In the event of the sponsor’s noncompliance or refusal to comply with any nondiscrimination law or policy, the Agreement may be rescinded, cancelled, or terminated in whole or in part, and the sponsor may be declared ineligible for further grant awards from the funding board. The sponsor is responsible for any and all costs or liability arising from the sponsor’s failure to so comply with applicable law.

B. Wages and Job Safety. The sponsor agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety. The sponsor agrees when state prevailing wage laws (RCW 39.12) are applicable, to comply with such laws, to pay the prevailing rate of wage to all workers, laborers, or mechanics employed in the performance of any part of this contract, and to file a statement of intent to pay prevailing wage with the Washington State Department of Labor and Industries as required by RCW 39.12.040. The sponsor also agrees to comply with the provisions of the rules and regulations of the Washington State Department of Labor and Industries.
C. Archaeological and Cultural Resources. The RCO facilitates the review of applicable projects for potential impacts to archaeological sites and state cultural resources. The sponsor must assist RCO in compliance with Executive Order 05-05 or the National Historic Preservation Act before initiating ground-disturbing activity. The funding board requires documented compliance with Executive Order 05-05 or Section 106 of the National Historic Preservation Act, whichever is applicable to the project. If a federal agency declines to consult, the sponsor shall comply with the requirements of Executive Order 05-05. In the event that archaeological or historic materials are discovered during project activities, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification must be provided to the following: concerned Tribes' cultural staff and cultural committees, RCO, and the State Department of Archaeology and Historic Preservation. If human remains are discovered during project activity, work in the location of discovery and immediate vicinity must stop instantly, the area must be secured, and notification provided to the concerned Tribe’s cultural staff and cultural committee, RCO, State Department of Archaeology, the coroner and local law enforcement in the most expeditious manner possible according to RCW 68.50.

D. Restrictions on Grant Use. No part of any funds provided under this grant shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, or for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the U.S. Congress or any state legislature.

No part of any funds provided under this grant shall be used to pay the salary or expenses of any sponsor, or agent acting for such sponsor, related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any state legislature.

E. Debarment and Certification. By signing the Agreement with RCO, the sponsor certifies that neither it nor its principals nor any other lower tier participant are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by Washington State Labor and Industries. Further, the sponsor agrees not to enter into any arrangements or contracts related to this Agreement with any party that is on the "Contractors not Allowed to Bid on Public Works Projects" list.

SECTION 9. RECORDS

A. Maintenance. The sponsor shall maintain books, records, documents, data and other evidence relating to this Agreement and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. Sponsor shall retain such records for a period of six years from the date RCO deems the project complete, as defined in Section 11: Project Reimbursements. If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

B. Access to Records and Data. At no additional cost, the records relating to the Agreement, including materials generated under the Agreement, shall be subject at all reasonable times to inspection, review or audit by RCO, personnel duly authorized by RCO, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or Agreement. This includes access to all information that supports the costs submitted for payment under the grant and all findings, conclusions, and recommendations of the sponsor’s reports, including computer models and methodology for those models.

C. Public Records. Sponsor acknowledges that the funding board is subject to RCW 42.56, and that this Agreement and any records sponsor submits or has submitted to the State shall be a public record as defined in RCW 42.56. RCO administers public records requests per WAC 286-06 and 420-04. Additionally, in compliance with RCW 77.85.130(8), sponsor agrees to disclose any information in regards to expenditure of any funding received from the SRFB. By submitting any record to the state sponsor understands that the State may be requested to disclose or copy that record under the state public records law, currently codified at RCW 42.56. The sponsor warrants that it possesses such legal rights as are necessary to permit the State to disclose and copy such document to respond to a request under state public records laws. The sponsor hereby agrees to release the State from any claims arising out of allowing such review or copying pursuant to a public records act request, and to indemnify against any claims arising from allowing such review or copying and pay the reasonable cost of state's defense of such claims.

SECTION 10. PROJECT FUNDING

A. Authority. This agreement is funded through a grant award from the recreation and conservation funding board per WAC 286-13-050 and/or the salmon recovery funding board per WAC 420-04-050. The director of RCO enters into this agreement per delegated authority in RCW 79A.25.020 and 77.85.120.

B. Additional Amounts. The funding board shall not be obligated to pay any amount beyond the dollar amount as identified in this Agreement, unless an additional amount has been approved in advance by the funding board or director and incorporated by written amendment into this Agreement.

C. Before the Agreement. No expenditure made, or obligation incurred, by the sponsor before the project start date shall be eligible for grant funds, in whole or in part, unless specifically provided for by funding board policy, such as a waiver of retroactivity or program specific eligible pre-Agreement costs. For reimbursements of such costs, this Agreement must be fully executed and an original received by RCO. The dollar amounts identified in this Agreement may be reduced as necessary to exclude any such expenditure from reimbursement.

D. Requirements for Federal Subawards. Pre-agreements costs before the federal award date in Section F: Project Funding are ineligible unless approved by the federal award agency (2 C.F.R § 200.458 (2013)).
E. After the Period of Performance. No expenditure made, or obligation incurred, following the period of performance shall be eligible, in whole or in part, for grant funds hereunder. In addition to any remedy the funding board may have under this Agreement, the grant amounts identified in this Agreement shall be reduced to exclude any such expenditure from participation.

SECTION 11. PROJECT REIMBURSEMENTS

A. Reimbursement Basis. This Agreement is administered on a reimbursement basis per WAC 286-13 and/or 420-12. The sponsors may only request reimbursement for eligible and allowable costs incurred during the period of performance. The sponsor may only request reimbursement after (1) this Agreement has been fully executed and (2) the sponsor has remitted payment to its vendors. RCO will authorize disbursement of project funds only on a reimbursable basis at the percentage as defined in Section F: Project Funding. Reimbursement shall not be approved for any expenditure not incurred by the sponsor or for a donation used as part of its matching share. RCO does not reimburse for donations, which the sponsor may use as part of its percentage. All reimbursement requests must include proper documentation of expenditures as required by RCO.

B. Reimbursement Request Frequency. Sponsors are encouraged to send RCO a reimbursement request at least quarterly. Sponsors are required to submit a reimbursement request to RCO, at a minimum for each project at least once a year for reimbursable activities occurring between July 1 and June 30 or as identified in the milestones. Sponsors must refer to the most recently published/adopted RCO policies and procedures regarding reimbursement requirements.

C. Compliance and Payment. The obligation of RCO to pay any amount(s) under this Agreement is expressly conditioned on strict compliance with the terms of this Agreement by the sponsor.

D. Retainage Held Until Project Complete. RCO reserves the right to withhold disbursement of up to the final ten percent (10%) of the total amount of the grant to the sponsor until the project has been completed. A project is considered “complete” when:
1. All approved or required activities outlined in the Agreement are done;
2. On-site signs are in place (if applicable);
3. A final project report is submitted to and accepted by RCO;
4. Any other required documents are complete and submitted to RCO;
5. A final reimbursement request is submitted to RCO;
6. The completed project has been accepted by RCO;
7. Final amendments have been processed; and
8. Fiscal transactions are complete.
9. RCO has accepted a final boundary map, if required for the project, for which the Agreement terms will apply in the future.

E. Requirements for Federal Subawards: Match. The sponsor’s matching share must comply with 2 C.F.R. § 200.306 (2013). Any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the sponsor’s matching share when such contributions meet all of the following criteria:
1. Are verifiable from the non-Federal entity’s (sponsor’s) records;
2. Are not included as contributions for any other Federal award;
3. Are necessary and reasonable for accomplishment of project or program objectives;
5. Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
6. Are provided for in the approved budget when required by the Federal awarding agency identified in Section G: Federal Fund Information of this Agreement; and
7. Conform to other provisions of 2 C.F.R. Part 200, Subpart D-Post Federal Award Requirements (2013), as applicable.

F. Requirements for Federal Subawards: Close out. Per 2 C.F.R § 200.343 (2013), the non-Federal entity (sponsor) must:
1. Submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity (RCO) may approve extensions when requested by the sponsor.
2. Liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.
3. Refund any balances of unobligated cash that the Federal awarding agency or pass-through entity (RCO) paid in advance or paid and that are not authorized to be retained by the non-Federal entity (sponsor) for use in other projects. See OMB Circular A-129 and see 2 C.F.R § 200.345 Collection of amounts due (2013), for requirements regarding unreturned amounts that become delinquent debts.

SECTION 12. ADVANCE PAYMENTS

Advance payments of or in anticipation of goods or services are not allowed unless approved by the RCO director and are consistent with legal requirements and Manual 8: Reimbursements. See WAC 420-12.
SECTION 13. RECOVERY OF PAYMENTS

A. Recovery for Noncompliance. In the event that the sponsor fails to expend funds under this Agreement in accordance with state and federal laws, and/or the provisions of the Agreement, or meet its percentage of the project total, RCO reserves the right to recover grant award funds in the amount equivalent to the extent of noncompliance in addition to any other remedies available at law or in equity.

B. Overpayment Payments. The sponsor shall reimburse RCO for any overpayment or erroneous payments made under the Agreement. Repayment by the sponsor of such funds under this recovery provision shall occur within 30 days of demand by RCO. Interest shall accrue at the rate of twelve percent (12%) per annum from the time that payment becomes due and owing.

C. Requirements for Federal Subawards. The pass-through entity (RCO) may impose any of the remedies as authorized in 2 C.F.R §§ 200.207 Specific conditions and/or 200.338 Remedies for noncompliance (2013).

SECTION 14. COVENANT AGAINST CONTINGENT FEES

The sponsor warrants that no person or selling agent has been employed or retained to solicit or secure this Agreement on an Agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the sponsor for the purpose of securing business. RCO shall have the right, in the event of breach of this clause by the sponsor, to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement grant amount or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

SECTION 15. INCOME AND USE OF INCOME

A. RCFB Projects. See VAC 286-13-110 for additional requirements for projects funded from the RCFB.

B. Income.

1. Compatible source. The source of any income generated in a funded project or project area must be compatible with the funding source and the Agreement.

2. Fees. User and/or other fees may be charged in connection with land acquired or facilities developed, maintained, renovated, or restored with funding board grants if the fees are consistent with the:
   (a) Value of any service(s) furnished;
   (b) Value of any opportunities furnished; and
   (c) Prevailing range of public fees in the state for the activity involved.
   (d) Excepted are Firearms and Archery Range Recreation Program safety classes (firearm and/or hunter) for which a facility/range fee must not be charged (RCW 79A.25.210).

C. Use of income. Regardless of whether income or fees in a project work site (including entrance, utility corridor permit, cattle grazing, timber harvesting, farming, etc.) are gained during or after the reimbursement period cited in the Agreement, unless precluded by state or federal law, the revenue may only be used to offset:

1. The sponsor’s matching resources;

2. The project’s total cost;

3. The expense of operation, maintenance, stewardship, monitoring, and/or repair of the facility or program assisted by the funding board grant;

4. The expense of operation, maintenance, stewardship, monitoring, and/or repair of other similar units in the sponsor’s system; and/or

5. Capital expenses for similar acquisition and/or development and renovation.


SECTION 16. PROCUREMENT REQUIREMENTS

A. Procurement Requirements. If Sponsors have a procurement process that follows applicable state and/or required federal procurement principles, it must be followed. If no such process exists the sponsor must follow these minimum procedures:

1. Publish a notice to the public requesting bids/proposals for the project;

2. Specify in the notice the date for submittal of bids/proposals;

3. Specify in the notice the general procedure and criteria for selection; and

4. Comply with the same legal standards regarding unlawful discrimination based upon race, ethnicity, sex, or sex-orientation that are applicable to state agencies in selecting a bidder or proposer.

This procedure creates no rights for the benefit of third parties, including any proposers, and may not be enforced or subject to review of any kind or manner by any other entity other than the RCO. Sponsors may be required to certify to the RCO that they have followed any applicable state and/or federal procedures or the above minimum procedure where state or federal procedures do not apply.
B. Requirements for Federal Subawards.
   2. For RTP subawards, sponsors follow such policies and procedures allowed by the State when procuring property and services under a Federal award (2 C.F.R § 1201.317 (2013)). State procurement policies are in subsection A of this section.

SECTION 17. TREATMENT OF EQUIPMENT
A. Discontinued Use. Equipment shall remain in the possession of the sponsor for the duration of the project or applicable grant program. When the sponsor discontinues use of the equipment for the purpose for which it was funded, RCO will require the sponsor to deliver the equipment to RCO, dispose of the equipment according to RCO policies, or return the fair market value of the equipment to RCO. Equipment shall be used only for the purpose of this Agreement, unless otherwise provided herein or approved by RCO in writing.

B. Loss or Damage. The sponsor shall be responsible for any loss or damage to equipment which results from the negligence of the sponsor or which results from the failure on the part of the sponsor to maintain and administer that equipment in accordance with sound management practices.

C. Requirements for Federal Subawards. Except RTP, procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements (2 C.F.R § 200.313 (2013)).
   1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
   2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
   3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
   4. Adequate maintenance procedures must be developed to keep the property in good condition.
   5. If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

D. Requirements for RTP Subawards. The subrecipient (sponsor) shall follow such policies and procedures allowed by the State with respect to the use, management and disposal of equipment acquired under a Federal award (2 C.F.R § 1201.313 (2013)).

SECTION 18. RIGHT OF INSPECTION
The sponsor shall provide right of access to the project to RCO, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

If a landowner agreement or other form of control and tenure as described in Section 22.B: Control and Tenure has been executed, it will further stipulate and define the funding board and RCO's right to inspect and access lands acquired or developed with funding board assistance.

SECTION 19. STEWARDSHIP AND MONITORING
Sponsor agrees to perform monitoring and stewardship functions as stated in policy documents approved by the funding boards or RCO. Sponsor further agrees to utilize, where applicable and financially feasible, any monitoring protocols recommended by the funding board.

SECTION 20. PREFERENCES FOR RESIDENTS
Sponsors shall not express a preference for users of grant assisted projects on the basis of residence (including preferential reservation, membership, and/or permit systems) except that reasonable differences in admission and other fees may be maintained on the basis of residence. Even so, the funding board discourages the imposition of differential fees. Fees for nonresidents must not exceed twice the fee imposed on residents. Where there is no fee for residents but a fee is charged to nonresidents, the nonresident fee shall not exceed the amount that would be imposed on residents at comparable state or local public facilities.

SECTION 21. ACKNOWLEDGMENT AND SIGNS
A. Publications. The sponsor shall include language which acknowledges the funding contribution of the applicable grant program to this project in any release or other publication developed or modified for, or referring to, the project during the project period and in the future.

B. Signs. The sponsor also shall post signs or other appropriate media during the project period of performance and in the future at project entrances and other locations on the project which acknowledge the applicable grant program's funding contribution, unless exempted in funding board policy or waived by the director.
C. Ceremonies. The sponsor shall notify RCO no later than two weeks before a dedication ceremony for this project. The sponsor shall verbally acknowledge the applicable grant program’s funding contribution at all dedication ceremonies.

D. Federally Funded Projects. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing a project funded in whole or in part with federal money provided for in this grant, sponsors shall clearly state:
   1. The fund source;
   2. The percentage of the total costs of the project that is financed with federal money;
   3. The dollar amount of federal funds for the project; and
   4. The percentage and dollar amount of the total costs of the project that is financed by nongovernmental sources.

SECTION 22. PROVISIONS APPLYING TO DEVELOPMENT, MAINTENANCE, RENOVATION AND RESTORATION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is for construction of land or facilities in a development, maintenance, renovation or restoration project:

A. Document Review and Approval. The sponsor agrees to submit one copy of all construction plans and specifications to RCO for review prior to implementation or as otherwise identified in the milestones. Review and approval by RCO will be for compliance with the terms of this Agreement. Only change orders that impact the amount of funding or changes to the scope of the project as described to and approved by the funding board or RCO must receive prior written approval.

B. Control and Tenure. The sponsor must provide documentation that shows appropriate tenure (landowner agreement, long-term lease, easement, or fee simple ownership) for the land proposed for construction. The documentation must meet current RCO requirements identified in the appropriate grant program policy manual as of the effective date of this Agreement.

C. Nondiscrimination. Except where a nondiscrimination clause required by a federal funding agency is used, the sponsor shall insert the following nondiscrimination clause in each contract for construction of this project:

   “During the performance of this contract, the contractor agrees to comply with all federal and state nondiscrimination laws, regulations and policies.”


SECTION 23. PROVISIONS APPLYING TO ACQUISITION PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition project:

A. Evidence of Land Value. Before disbursement of funds by RCO as provided under this Agreement, the sponsor agrees to supply documentation acceptable to RCO that the cost of the property rights acquired has been established according to funding board policy.

B. Evidence of Title. The sponsor agrees to provide documentation that shows the type of ownership interest for the property that has been acquired. This shall be done before any payment of financial assistance.

C. Legal Description of Real Property Rights Acquired. The legal description of the real property rights purchased with funding assistance provided through this project Agreement (and protected by a recorded conveyance of rights to the State of Washington) shall be incorporated into the Agreement before final payment.

D. Conveyance of Rights to the State of Washington. When real property rights (both fee simple and lesser interests) are acquired, the sponsor agrees to execute an appropriate document conveying certain rights and responsibilities to RCO, on behalf of the State of Washington. These documents include a Deed of Right, Assignment of Rights, Easements and/or Leases as described below. The sponsor agrees to use document language provided by RCO, to record the executed document in the County where the real property lies, and to provide a copy of the recorded document to RCO. The document required will vary depending on the project type, the real property rights being acquired and whether or not those rights are being acquired in perpetuity.

   1. Deed of Right. The Deed of Right conveys to the people of the state of Washington the right to preserve, protect, and/or use the property for public purposes consistent with the fund source. See WAC 420-12 or 286-13. Sponsors shall use this document when acquiring real property rights that include the underlying land. This document may also be applicable for those easements where the sponsor has acquired a perpetual easement for public purposes.

   2. Assignment of Rights. The Assignment of Rights document transfers certain rights such as access and enforcement to RCO. Sponsors shall use this document when an easement or lease is being acquired for habitat conservation or salmon recovery purposes. The Assignment of Rights requires the signature of the underlying landowner and must be incorporated by reference in the easement document.

   3. Easements and Leases. The sponsor may incorporate required language from the Deed of Right or Assignment of Rights directly into the easement or lease document, thereby eliminating the requirement for a separate document. Language will depend on the situation; sponsor must obtain RCO approval on the draft language prior to executing the easement or lease.
E. Real Property Acquisition and Relocation Assistance

1. Federal Acquisition Policies. When federal funds are part of this Agreement, the Sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894 (1970)—Public Law 91-644, as amended by the Surface Transportation and Uniform Relocation Assistance Act, PL 100-17-1987, and applicable regulations and procedures of the federal agency implementing that Act.

2. State Acquisition Policies. When state funds are part of this Agreement, the sponsor agrees to comply with the terms and conditions of the Uniform Relocation Assistance and Real Property Acquisition Policy of the State of Washington, Chapter 8.26 RCW, and Chapter 469-100 WAC.

3. Housing and Relocation. In the event that housing and relocation costs, as required by federal law set out in subsection (1) above and/or state law set out in subsection (2) above, are involved in the execution of this project, the sponsor agrees to provide any housing and relocation assistance required.

F. Buildings and Structures. In general, grant funds are to be used for outdoor recreation, habitat conservation, or salmon recovery. Sponsors agree to remove or demolish ineligible structures. Sponsors must consult RCO regarding compliance with Section 8.C.: Archaeological and Cultural Resources before structures are removed or demolished.

G. Hazardous Substances.

1. Certification. The sponsor shall inspect, investigate, and conduct an environmental audit of the proposed acquisition site for the presence of hazardous substances, as defined in RCW 70.105D.020(10), and certify:
   a. No hazardous substances were found on the site, or
   b. Any hazardous substances found have been treated and/or disposed of in compliance with applicable state and federal laws, and the site deemed "clean."

2. Responsibility. Nothing in this provision alters the sponsor's duties and liabilities regarding hazardous substances as set forth in RCW 70.105D.

3. Hold Harmless. The sponsor will defend, protect and hold harmless RCO and any and all of its employees and/or agents, from and against any and all liability, cost (including but not limited to all costs of defense and attorneys' fees) and any and all loss of any nature from any and all claims or suits resulting from the presence of, or the release or threatened release of, hazardous substances on the property the sponsor is acquiring.

H. Requirements for Federal Subawards. The non-Federal entity (sponsor) must submit reports at least annually on the status of real property in which the Federal Government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or the pass-through entity (RCC), at its option, may require the sponsor to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or RCO may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years) (2 C.F.R § 200.329 (2013)).

SECTION 24. RESTRICTION ON CONVERSION OF REAL PROPERTY AND/OR FACILITIES TO OTHER USES

The sponsor shall not at any time convert any real property (including any interest therein) or facility acquired, developed, maintained, renovated, and/or restored pursuant to this Agreement to uses other than those purposes for which funds were approved without prior approval of the funding board in compliance with applicable statutes, rules, and funding board policies. Also see WAC Title 286 or 420. It is the intent of the funding board's conversion policy, current or as amended in the future, that all real property or facilities acquired, developed, renovated, and/or restored with funding assistance remain in the public domain in perpetuity unless otherwise identified in the Agreement or as approved by the funding board. Determination of whether a conversion has occurred shall be based upon applicable law and RCFB/SRFB policies.

For acquisition projects that are term limited, such as one involving a lease or a term-limited restoration, renovation or development project or easement, this restriction on conversion shall apply only for the length of the term, unless otherwise provided in written documents or required by applicable state or federal law. In such case, the restriction applies to such projects for the length of the term specified by the lease, easement, deed, or landowner agreement.

When a conversion has been determined to have occurred, the sponsor is required to remedy the conversion per established funding board policies.

SECTION 25. CONSTRUCTION, OPERATION, USE AND MAINTENANCE OF ASSISTED PROJECTS

The following provisions shall be in force only if the project described in this Agreement is an acquisition, development, maintenance, renovation or restoration project:

A. Property and facility operation and maintenance. Sponsor must ensure that properties or facilities assisted with funding board funds, including undeveloped sites, are built, operated, used, and maintained:

1. According to applicable federal, state, and local laws and regulations, including public health standards and building codes.

2. In a reasonably safe condition for the project's intended use.

3. Throughout its estimated useful service life so as to prevent undue deterioration.

4. In compliance with all federal and state nondiscrimination laws, regulations and policies.
B. Open to the public: Facilities open and accessible to the general public must:

1. Be constructed and maintained to meet or exceed the minimum requirements of the most current local or state codes, Uniform Federal Accessibility Standards, guidelines, or rules, including but not limited to: the International Building Code, the Americans with Disabilities Act, and the Architectural Barriers Act, as updated.

2. Appear attractive and inviting to the public except for brief installation, construction, or maintenance periods.

3. Be available for use by the general public without reservation at reasonable hours and times of the year, according to the type of area or facility.

SECTION 26. PROVISIONS RELATED TO CORPORATE (INCLUDING NONPROFIT) SPONSORS

A corporate sponsor, including any nonprofit sponsor, shall:

A. Maintain corporate status with the state, including registering with the Washington Secretary of State's office, throughout the sponsor's obligation to the project as identified in the Agreement.

B. Notify RCO prior to corporate dissolution at any time during the period of performance or long-term obligations. Within 30 days of dissolution the sponsor shall name a qualified successor that will agree in writing to assume any on-going project responsibilities. A qualified successor is any party eligible to apply for funds in the subject grant program and capable of complying with the terms and conditions of this Agreement. RCO will process an amendment transferring the sponsor’s obligation to the qualified successor if requirements are met.

C. Sites or facilities open to the public may not require exclusive use, (e.g., members only).

SECTION 27. PROVISIONS FOR FEDERAL SUBAWARDS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded with a federal subaward as identified in Section G: Federal Fund Information.


Federally assisted construction contract means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work. (41 C.F.R. § 60-1.3)

Construction work means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other costs incidental to the actual construction. (41 C.F.R. § 60-1.3)


In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity (sponsor) must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity (sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section G: Federal Fund Information.

The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U. S. C. 3145), as supplemented by Department of Labor regulations (29 C.F.R Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subcontractor (sponsor) must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity (sponsor) must report all suspected or reported violations to the Federal awarding agency identified in Section G: Federal Fund Information.
C. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity (sponsor) in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

D. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 C.F.R § 401.2(a) and the recipient or subrecipient (sponsor) wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient (sponsor) must comply with the requirements of 37 C.F.R Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

E. Clean Air Act (42 U.S.C. 7401-7671g) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as Amended. Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671g) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency identified in Section G: Federal Fund Information and the Regional Office of the Environmental Protection Agency (EPA).


G. Procurement of Recovered Materials. A non-Federal entity (sponsor) that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

H. Required Insurance. The non-Federal entity (sponsor) must, at a minimum, provide the equivalent insurance coverage for real property acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award (2 C.F.R § 200.310 (2013)).

I. Debarment and Suspension (Executive Orders 12549 and 12689). The sponsor must not award a contract (see 2 C.F.R § 180.220) to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget (OMB) guidelines at 2 C.F.R § 180 that implement Executive Orders 12549 (3 C.F.R part 1986 Comp., p. 169) and 12689 (3 C.F.R part 1989 Comp., p. 235). "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
SECTION 28.  PROVISIONS FOR FIREARMS AND ARCHERY RANGE RECREATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Firearms and Archery Range Recreation Account.

A. Liability Insurance. The sponsor of a firearms or archery range recreation project shall procure an endorsement, or other addition, to liability insurance it may currently carry, or shall procure a new policy of liability insurance, in a total coverage amount the sponsor deems adequate to ensure it will have resources to pay successful claims of persons who may be killed or injured, or suffer damage to property, while present at the range facility to which this grant is related, or by reason of being in the vicinity of that facility; provided that the coverage shall be at least one million dollars ($1,000,000) for the death of, or injury to, each person.

B. Insurance Endorsement. The liability insurance policy, including any endorsement or addition, shall name Washington State, the funding board, and RCO as additional insured and shall be in a form approved by the funding board or director.

C. Length of Insurance. The policy, endorsement or other addition, or a similar liability insurance policy meeting the requirements of this section, shall be kept in force throughout the sponsor's obligation to the project as identified in this Agreement in Section E: On-going Obligation.

D. Notice of Cancellation. The policy, as modified by any endorsement or other addition, shall provide that the issuing company shall give written notice to RCO not less than thirty (30) calendar days in advance of any cancellation of the policy by the insurer; and within ten (10) calendar days following any termination of the policy by the sponsor.

E. Government Agencies. The requirement of Subsection A through D above shall not apply if the sponsor is a federal, state, or municipal government which has established a program of self-insurance or a policy of self-insurance with respect to claims arising from its facilities or activities generally, including such facilities as firearms or archery ranges, when the applicant declares and describes that program or policy as a part of its application to the funding board.

F. Sole Duty of the Sponsor. By this requirement, the funding board and RCO does not assume any duty to any individual person with respect to death, injury, or damage to property which that person may suffer while present at, or in the vicinity of, the facility to which this grant relates. Any such person, or any other person making claims based on such death, injury, or damage, must look to the sponsor, or others, for any and all remedies that may be available by law.

SECTION 29.  PROVISIONS FOR LAND AND WATER CONSERVATION FUND PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Land and Water Conservation Fund.

If the project has been approved by the National Park Service, US Department of the Interior, for funding assistance from the federal Land and Water Conservation Fund (LWCF), the "Project Agreement General Provisions" in the LWCF State Assistance Program, Federal Financial Assistance Manual are also made part of this Agreement and incorporated herein. The sponsor shall abide by these LWCF General Provisions, in addition to this Agreement, as they now exist or are hereafter amended. Further, the sponsor agrees to provide RCO with reports or documents needed to meet the requirements of the LWCF General Provisions.

SECTION 30.  PROVISIONS FOR FARMLAND PRESERVATION ACCOUNT PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Washington Wildlife and Recreation Program Farmland Preservation Account.

For projects funded through the Washington Wildlife and Recreation Program Farmland Preservation Account, the following sections will not apply if covered separately in a recorded RCO approved Agricultural Conservation Easement:

A. Section 15 - Income and Income Use;
B. Section 19 - Stewardship and Monitoring;
C. Section 21 - Acknowledgement and Signs;
D. Section 23 - Provisions applying to Acquisition Projects, Sub-sections D, F, and G;
E. Section 24 - Restriction on Conversion of Real Property and/or Facilities to Other Uses; and
F. Section 25 - Construction, Operation and Maintenance of Assisted Projects.

SECTION 31.  PROVISIONS FOR SALMON RECOVERY FUNDING BOARD PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded by the SRFB.

For habitat restoration projects funded in part or whole with federal funds administered by the SRFB the sponsor shall not commence with clearing of riparian trees or in-water work unless either the sponsor has complied with 50 C.F.R. § 223.203(b)(8) (2000), limit 8 or until an Endangered Species Act consultation is finalized in writing by the National Oceanic and Atmospheric Administration. Violation of this requirement may be grounds for terminating this project Agreement. This section shall not be the basis for any enforcement responsibility by RCO.
SECTION 32. PROVISIONS FOR PUGET SOUND ACQUISITION AND RESTORATION PROJECTS ONLY

The following provisions shall be in force only if the project described in this Agreement is funded from the Puget Sound Acquisition and Restoration program.

The sponsor agrees to the following terms and conditions:

A. Cost Principles/Indirect Costs for State Agencies. Sub-Recipient (sponsor) will comply with the cost principles of 2 C.F.R. Part 200 Subpart E (2013). Unless otherwise indicated, the cost principles apply to the use of funds provided under this Agreement and in-kind matching donations. The applicability of the cost principles depends on the type of organization incurring the costs.

B. Sub-recipient (sponsor) shall meet the provisions in Office of Management and Budget (OMB) Guidance, Subpart F, §200.501 (Audit Requirements), if the sponsor expends $750,000 or more in total Federal funds in a fiscal year. The $750,000 threshold for each year is a cumulative total of all federal funding from all sources. The sponsor shall forward a copy of the audit along with the sponsor’s response and the final corrective action plan to RCO within ninety (90) days of the date of the audit report. For complete information on how to accomplish the single audit submissions, visit the Federal Audit Clearinghouse Web site http://harvester.census.gov/facweb

C. Credit and Acknowledgement. In addition to Section 21: Acknowledgement and Signs, materials produced must display both the Environmental Protection Agency (EPA) and Puget Sound Partnership (PSP) logos and the following credit line: “This project has been funded wholly or in part by the United States Environmental Protection Agency. The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.” This requirement is for the life of the product, whether during or after the Agreement period of performance.

D. Hotel Motel Fire Safety Act. Sponsor assures to ensure that all conference, meeting, convention, or training space funded in whole or part with federal funds, complies with the federal Hotel and Motel Fire Safety Act (PL 101-391, as amended). Sponsors may search the Hotel-Motel National Master List @ http://www.usa.gov/applications/hotel to see if a property is in compliance or to find other information about the Act.

E. Drug Free Workplace Certification. Sub-recipient (sponsor) shall make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization shall identify all known workplaces under its federal awards, and keep this information on file during the performance of the award. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at: http://ecfr.gpoaccess.gov.

F. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to the expenses added to direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities or for other similar costs which are not allowable. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except for the extent authorized as a direct cost of carrying out the scope of work.

G. Trafficking in Persons and Trafficking Victim Protection Act of 2000 (TVPA). This provision applies only to a Sub-recipient (sponsor), and all sub-awardees of sub-recipient (sponsor), if any. Sub-recipient (sponsor) shall include the following statement in all sub-awards made to any private entity under this Agreement.

“You as the sub-recipient, your employees, sub-awardees under this award, and sub-awardees’ employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect, procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under this Award.”

Sub-recipient (sponsor), and all sub-awardees of sub-recipient (sponsor) must inform RCO immediately of any information you receive from any source alleging a violation of this prohibition during the award term.

Federal agency funding this agreement may unilaterally terminate, without penalty, the funding award if this prohibition is violated, Section 108 of the Trafficking Victims Protection Act of 2000, as amended.

H. Lobbying. The chief executive officer of this recipient agency (sponsor) shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient (sponsor) shall abide by their respective Cost Principles (OMB Circulars A-21, A-87, and A-122), which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

The sponsor agrees to comply with 40 C.F.R. Part 34, New Restrictions on Lobbying. Sponsor shall include the language of this provision in award documents for all sub-awards exceeding $100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any sponsor who makes a prohibited expenditure under 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure.
All contracts awarded by sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at 40 C.F.R. Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986, or that it is a non-profit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

I. Reimbursement Limitation. If the sponsor expends more than the amount of RCO funding in this Agreement in anticipation of receiving additional funds from the RCO, it does so at its own risk. RCO is not legally obligated to reimburse the sponsor for costs incurred in excess of the RCO approved budget.

J. Disadvantaged Business Enterprise Requirements. Sponsor agrees to comply with the requirements of EPA's Utilization of Small, Minority and Women's Business Enterprises in procurements made under this award.

K. Minority and Women's Business Participation. Sponsor agrees to solicit and recruit, to the maximum extent possible, certified minority owned (MBE) and women owned (WBE) businesses in purchases and contracts initiated after the effective date of this Agreement.

These goals are expressed as a percentage of the total dollars available for the purchase or Agreement and are as follows:

- Purchased Goods 8% MBE 4% WBE
- Purchased Services 10% MBE 4% WBE
- Professional Services 10% MBE 4% WBE

Meeting these goals is voluntary and no Agreement award or rejection shall be made based on achievement or non-achievement of the goals. Achievement of the goals is encouraged, however, and sponsor and all prospective bidders or persons submitting qualifications shall take the following affirmative steps in any procurement initiated after the effective date of this Agreement:

1. Include qualified minority and women's businesses on solicitation lists.
2. Assure that qualified minority and women's business are solicited whenever they are potential sources of services or supplies.
3. Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.
4. Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.
5. Use the services and assistance of the State Office of Minority and Women's Business Enterprises (OMWBE) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

L. MBE/WBE Reporting. In accordance with the deviation from 40 C.F.R. §33.502, signed November 8, 2013, DBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

1. There are any funds budgeted in the contract(s)/services, equipment or construction lines of the award;
2. $3,000 or more is included for supplies; or
3. There are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as
4. Described in items (a) and (b).

When completing the form, recipients (sponsors) should disregard the quarterly and semi-annual boxes in the reporting period section 1B of the form. For annual submissions, the report is due by October 30th of each year or 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients (sponsors) with funds budgeted for non-supply procurement and/or $3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to the DBE Coordinator in the sponsor's region. Contact information can be found at http://www.epa.gov/osbp/contacpage.htm. The coordinators can also answer any questions.

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. To be in compliance with regulations, the sponsor must submit a final MBE/WBE report.

Non-compliance may impact future competitive grant proposals. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at http://www.epa.gov/osbp/dbe_reporting.htm.

M. SIX GOOD FAITH EFFORTS. 40 C.F.R., Part 33, Subpart C. Pursuant to 40 C.F.R. § 33.301, the sponsor agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients (sponsors), and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

1. Ensure Disadvantaged Business Enterprise (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local Government sponsors, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government sponsors, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when an Agreement is too large for one of these firms to handle individually.

5. Use the services and assistance of the Small Business Administration (SBA) and the Minority Business Development of the Department of Commerce.

6. If the sponsor awards subcontracts, require the sponsor to take the steps in paragraphs (1) through (5) of this section.

N. Lobbying & Litigation. By signing this agreement, the sponsor certifies that none of the funds received from this agreement shall be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

The chief executive officer of this sponsor agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The sponsor shall abide by its respective Attachment in 2 C.F.R. Part 200, which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

For subawards exceeding $100,000, EPA requires the following certification and disclosure forms:
Certification Regarding Lobbying. EPA Form 6500-06: http://www.epa.gov/ogd/AppKit/form/Lobbying_sec.pdf

Legal expenses required in the administration of Federal programs are allowable. Legal expenses for prosecution of claims against the Federal Government are unallowable.

O. Payment to Consultants. EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients (sponsors) or by a recipients' (sponsor's) contractors or subcontractors shall be limited to the maximum daily rate for Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 C.F.R. Parts 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient (sponsor) with responsibility for the selection, direction and control of the individual who will be providing services under the contract at an hourly or daily rate of compensation. See 40 C.F.R. § 30.27(b) or 40 C.F.R. § 31.389(j), as applicable, for additional information.

As of January 1, 2014, the limit is $902.24 per day $75.28 per hour.

P. Peer Review. Where appropriate, prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review, and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the Project Monitor prior to releasing any final reports or products resulting from the funded study.

SECTION 33. PROVISIONS FOR ESTUARY AND SALMON RESTORATION PROGRAM - EPA AND MARINE SHORELINE

The following provisions shall be in force only if the project described in this Agreement is funded from the Estuary and Salmon Restoration Program - EPA or the Marine Shoreline Protection program.

The sponsor shall comply with all applicable federal, State, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement.

A. Administrative Conditions

1. Cost Principles. The sponsor agrees to comply with the cost principles of 2 C.F.R Part 200 (2013). Unless otherwise indicated, the Cost Principles apply to the use of funds provided under this Agreement and In-kind matching donations. The applicability of the Cost Principles depends on the type of organization incurring the costs.

2. Audit Requirements. The sponsor shall fully comply with requirements of 2 C.F.R. Part 200, Subpart F- Audit Requirements (2013), if applicable. See also Section F: Project Funding.

3. Hotel-Motel Fire Safety Act. Pursuant to 40 C.F.R. 30.18, if applicable, and 15 U.S.C 2225a, sponsor agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended. The sponsor may search the Hotel-Motel National Master List at: http://www.usfa.dhs.gov/applications/hotel to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

4. Recycled Paper
   a. Institutions of Higher Education Hospitals and Non-Profit Organizations. In accordance with 40 C.F.R. 30.16, sponsor agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.
b. State Agencies and Political Subdivisions. In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 9626) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchases of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 C.F.R. 247.

c. State and Local Institutions of Higher Education and Non-Profit Organizations. In accordance with 40 C.F.R. § 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

d. State Tribal and Local Government Recipients. In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the sponsor agrees to use recycled paper and double sided printing for all reports which are prepared as part of this Agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

5. Lobbying. The sponsor agrees to comply with Title 40 C.F.R. Part 34, New Restrictions on Lobbying. The sponsor shall include the language of this provision in award documents for all sub-awards exceeding $100,000, and require that sub-awardees submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 C.F.R. Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure. See also Section 11: Compliance with Applicable Federal Laws.

a. Part 30 Recipients. All contracts awarded by the sponsor shall contain, when applicable, the anti-lobbying provisions as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the sponsor affirms that it is not a non-profit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a non-profit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

b. Lobbying and Litigation. The sponsor's chief executive officer shall ensure that no grant funds awarded under this Agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The sponsor shall abide by its respective Appendix in 2 C.F.R. Part 200, which prohibits the use of Federal grant funds for litigation against the United States or for lobbying or other political activities.

6. Suspension and Debarment. The sponsor shall fully comply with Subpart C of 2 C.F.R. Part 180 and 2 C.F.R. Part 1532, entitled 'Responsibilities of Participants Regarding Transaction (Doing Business with Other Persons)'. The sponsor is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 C.F.R. Part 180 and 2 C.F.R. Part 1532, entitled 'Covered Transactions', includes a term or condition requiring compliance with Subpart C. The sponsor is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. The sponsor acknowledges that failing to disclose the information as required at 2 C.F.R. § 180.335 may result in the delay or negation of this assistance agreement, or pursuit of legal remedies, including suspension and debarment.

The sponsor may access the Excluded Parties List System at: http://www.epis.gov. This term and condition supersedes EPA Form 5700-49, 'Certification Regarding Debarment, Suspension, and Other Responsibility Matters'. See also Section 27: Provisions for Federal Subawards Only.

7. Drug-Free Workplace Certification. The sponsor must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in 2 C.F.R. Part 1536 Subpart B. Additionally, in accordance with these regulations, the sponsor must identify all known workplaces under its federal award; and keep this information on file during the performance of the award.

a. Sponsors who are individuals must comply with the drug-free provisions set forth in 2 C.F.R. Part 1536 Subpart C.

b. The consequences for violating this condition are detailed under 2 C.F.R. Part 1536 Subpart E. The sponsor can access 2 C.F.R. Part 1536 at http://ecfr.gov/access.gov.

8. Management Fees. Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

9. Reimbursement Limitation. If the sponsor expends more than the grant amount in this Agreement in its approved budget in anticipation of receiving additional funds, it does so at its own risk. The Federal Government and RCO is not legally obligated to reimburse the sponsor for costs incurred in excess of the approved budget. See also Section 11: Project Reimbursements.
10. Trafficking in Persons. The following prohibition statement applies to the sponsor, and all sub-awardees of the sponsor. The sponsor must include this statement in all sub-awards made to any private entity under this Agreement.

"YOU AS THE SUB-RECIPIENT, YOUR EMPLOYEES, SUB-AWARDEES UNDER THIS AWARD, AND SUB-AWARDEES' EMPLOYEES MAY NOT ENGAGE IN SEVERE FORMS OF TRAFFICKING IN PERSONS DURING THE PERIOD OF TIME THAT THE AWARD IS IN EFFECT, PROCURE A COMMERCIAL SEX ACT DURING THE PERIOD OF TIME THAT THE AWARD IS IN EFFECT, OR USE FORCED LABOR IN THE PERFORMANCE OF THE AWARD OR SUB-AWARDS UNDER THIS AWARD."

11. Disadvantaged Business Enterprise Requirements, General Compliance. The sponsor agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 C.F.R. Part 33.

12. Sub-Awards. If the sponsor makes sub-awards under this Agreement, the sponsor is responsible for selecting its sub-awardees and, if applicable, for conducting sub-award competitions. The sponsor agrees to:

a. Establish all sub-award agreements in writing;

b. Maintain primary responsibility for ensuring successful completion of the approved project (SPONSORS CANNOT DELEGATE OR TRANSFER THIS RESPONSIBILITY TO A SUB-AWARDEE);

c. Ensure that any sub-awards comply with the standards in 2 C.F.R. Part 200, and are not used to acquire commercial goods or services for the sub-awardee;

d. Ensure that any sub-awards to 501(c)(4) organizations do not involve lobbying activities;

e. Monitor the performance of sub-awardees, and ensure sub-awardees comply with all applicable regulations, statutes, and terms and conditions which flow down in the sub-award;

f. Obtain RCO's consent before making a sub-award to a foreign or international organization, or a sub-award to be performed in a foreign country; and

g. Obtain approval from RCO for any new sub-award work that is not outlined in the approved work plan in accordance with 40 C.F.R. Parts 30.25 and 31.30, as applicable.

13. Federal Employees. No Subcontract or grant funds may be used to provide any Federal Employee transportation assistance, reimbursement, and any other expense.

14. Fly America Act. The sponsor agrees to comply with 49 U.S.C. 40118 (the "Fly America" act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The sponsor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The sponsor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

15. Recovered Materials. The sponsor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247. See also Section 27: Provisions for Federal Subawards Only.

16. Copeland "Anti-Kickback" Act. All contracts and subgrants in excess of $2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency. See also Section 27: Provisions for Federal Subawards Only.

17. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7). When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency. See also Section 27: Provisions for Federal Subawards Only.
18. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333). Where applicable, all contracts awarded by recipients in excess of $2000 for construction contracts and in excess of $2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. See also Section 27: Provisions for Federal Subawards Only.

19. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 C.F.R. Part 401, “Rights to inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. See also Section 27: Provisions for Federal Subawards Only.

20. FY12 APPR ACT: Unpaid Federal Tax liabilities and Federal Felony Convictions. This Agreement is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, HR 2055, Division E, Sections 433 and 434 regarding unpaid federal tax liabilities and federal felony convictions. Accordingly, by accepting this award the recipient acknowledges that if (1) is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal conviction under and Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions and determined that such action is not necessary to such action is not necessary to protect the Government's interests. If the recipient fails to comply with these provisions, EPA will annul this agreement and may recover any funds the recipient has expended in violation of sections 433 and 434.

B. Programmatic Conditions:
1. Semi-Annual FEATS Performance Reports. The sponsor is required to submit performance reports every six months, unless a different reporting frequency is outlined in the Scope of Work, using the reporting tool supplied by RCO. The sponsor agrees to include brief information on each of the following areas:
   a. Comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement work plan for the period;
   b. The reasons for slippages if the established outputs/outcomes were not met; AND
   c. Additional pertinent information, including when appropriate, analysis and information of cost overruns or high unit costs.

   Reporting periods are from October 1 to March 31 and April 1 to September 30. Performance reports are due to RCO 15 days after the end of each reporting period.

2. Final Performance Report. In addition to the periodic performance reports, the sub-recipient will submit a final performance report to RCO within 60 calendar days after the expiration or termination of the award. The report shall be submitted to the RCO Grant Manager and must be provided electronically. The report shall generally contain the same information as in the periodic reports, but should cover the entire project period.

3. Recognition of EPA Funding. Reports, documents, signage, videos, or other media, developed as part of projects funded by this Agreement shall contain the following statement:

   "THIS PROJECT HAS BEEN FUNDED WHOLLY OR IN PART BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER ASSISTANCE AGREEMENT TO WASHINGTON DEPARTMENT OF FISH AND WILDLIFE. THE CONTENTS OF THIS DOCUMENT DO NOT NECESSARILY REFLECT THE VIEWS AND POLICIES OF THE ENVIRONMENTAL PROTECTION AGENCY, NOR DOES MENTION OF TRADE NAMES OR COMMERCIAL PRODUCTS CONSTITUTE ENDORSEMENT OR RECOMMENDATION FOR USE."

4. Copyrighted Material. EPA has the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes.

   RCO acknowledges that EPA may authorize another grantee to use copyrighted works or other data developed under this Agreement as a result of: a) the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data; or b) termination or expiration of this agreement.

5. Peer Review. The results of this project may affect management decisions relating to Puget Sound. Prior to finalizing any significant technical products the Principal Investigator (PI) of this project must solicit advice, review and feedback from a technical review or advisory group consisting of relevant subject matter specialists. A record of comments and a brief description of how respective comments are addressed by the PI will be provided to the RCO Grants Manager prior to releasing any final reports or products resulting from the funded study.
6. Quality Assurance Requirements. Acceptable Quality Assurance documentation must be submitted to the Grant Program within 30 days of acceptance of this agreement or another date as negotiated with the RCO Grants Manager. The National Estuary Program (NEP) Quality Coordinator supports quality assurance for EPA-funded NEP projects. No work involving direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology shall be initiated under an agreement until RCO or the NEP Quality Coordinator has approved the quality assurance document. The sponsor will submit all Quality Assurance documentation to the following address. Please copy the Grant Program on all correspondence with the NEP Quality Coordinator. Thomas H. Gries, NEP Quality Coordinator Department of Ecology Tgr465@ecy.wa.gov 360.407.6327.

7. Environmental Data and Information Technology. Sub-recipients are required to institute standardized reporting requirements into their work plans and include such costs in their budgets. All environmental data will be required to be entered into the EPA’s Storage and Retrieval data system (STORET). The best method (local or state consolidated) for reporting will be determined on a project-by-project basis between the DFW grant manager and sub-recipient. More information about STORET can be found at http://www.epa.gov/STORET.

SECTION 34. PROVISIONS FOR ESTUARY AND SALMON RESTORATION PROGRAM - EPA PROJECTS ONLY
The following provisions shall be in force only if the project described in this Agreement is funded from the Estuary and Salmon Restoration Program - EPA.

A. DUNS and CCR Requirements

1. Unless otherwise exempted from this requirement under 2 C.F.R. § 25.110, the sponsor must maintain the currency of its information in the CCR until submission of its final financial report required under this Agreement or receive the final payment, whichever is later.

2. The sponsor may not make a sub-award to any entity unless the entity has provided its DUNS number to the sponsor.

B. FY2011 ACORN Funding Restriction. No funds provided under this Agreement may be used for sub-awards/sub-grants or contracts to the Association of Community Organizations for Reform NOW (ACORN) or any of its subsidiaries.

SECTION 35. PROVISIONS FOR MARINE SHORELINE PROTECTION PROGRAM PROJECTS ONLY
The following provisions shall be in force only if the project described in this Agreement is funded from the Marine Shoreline Protection program.

The Sub-Recipient shall comply with all applicable federal, State, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement.

A. Federal Finance Report (FFR). Recipients (sponsor) shall submit final Federal Financial Reports (FFR), Standard Form 425 (SF-425), to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at www.epa.gov/lo/cf/services/forms.htm. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, 4220 S. Maryland Pkwy Bldg C, Rm 503, Las Vegas, NV 89119, or by FAX to: 702-798-2423. The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients (sponsor) will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement. EPA may take enforcement actions in accordance with 40 C.F.R. § 30.62 and 40 C.F.R. § 31.43 if the recipient does not comply with this term and condition.

B. Reimbursement Limitation. If the sponsor expends more than the amount of federal funding in its approved budget in anticipation of receiving additional funds, it does so at its own risk. The Federal Government and RCO is not legally obligated to reimburse Sub-Recipient for costs incurred in excess of the approved budget.

C. DUNS and CCR Requirements

1. Requirement for Central Contractor Registration (CCR)/System for Award Management (SAM). Unless the sponsor is exempted from this requirement under 2 C.F.R. § 25.110, the sponsor must maintain the currency of its information in the SAM until the sponsor submits the final financial report required under this award or receive the final payment, whichever is later. This requires that the sponsor review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

2. Requirement for Data Universal Numbering System (DUNS) numbers. If the sponsor is authorized to make subawards under this award, the sponsor:
   a. Must notify potential subrecipients that no entity may receive a subaward from the sponsor unless the entity has provided its DUNS number to the sponsor.
   b. May not make a subaward to an entity unless the entity has provided its DUNS number to the sponsor.
3. Definitions. For purposes of this award term:

a. Central Contractor Registration (CCR)/System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site http://www.sam.gov.

b. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at http://fedgov.dnb.com/webform).

c. Entity as it is used in this award term, means all of the following, as defined at 2 C.F.R Part 25, subpart C:

i. A Governmental organization, which is a State, local government, or Indian tribe;
ii. A foreign public entity;
iii. A domestic or foreign nonprofit organization;
iv. A domestic or foreign for-profit organization; and
v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

d. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMS Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
iii. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

e. Subrecipient means an entity that:

i. Receives a subaward from you under this award; and
ii. Is accountable to you for the use of the Federal funds provided by the subaward.

D. CIVIL RIGHTS OBLIGATIONS

1. General. This term and condition incorporates by reference the signed assurance provided by the recipient’s authorized representative on: 1) EPA Form 4700-4, “Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance”; and 2) Standard Form 4248 or Standard Form 424D, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

2. Statutory Requirements. In carrying out this agreement, the recipient must comply with:

a. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.

b. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and

c. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

If the recipient is conducting an education program under this agreement, it must also comply with Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance.

If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

3. Regulatory Requirements. The recipient agrees to comply with all applicable EPA civil rights regulations, including:

a. For Title IX obligations, 40 C.F.R. Part 5; and

b. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R. Part 7.

c. As noted on the EPA Form 4700-4 signed by the recipient’s authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.
4. Title VI - LEP, Public Participation and Affirmative Compliance Obligation.
   a. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at http://tfwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004register&docid=f:25/04-79.pdf
   b. If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at http://edocket.access.gpo.gov/2008/pdf/06-2891.pdf. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

E. Additional Term and Condition for Agricultural Landowners - Riparian Buffer Term for Agricultural Landowners. To be eligible for NEP implementation funding, provided directly or through a subaward, a private agricultural landowner whose property borders fresh or estuarine waters must establish and maintain a riparian buffer on all water courses on the property consistent with the National Marine Fisheries Service (NMFS) guidelines for Riparian Buffers Along Agricultural Water Courses in NW Washington and NRCS guidance on the NMFS guidelines. A land owner may be excluded from meeting this requirement if the funding is used solely for removal of shoreline armoring, onsite sewage system repair or replacement, engineered dike setbacks, or culvert or tide-gate replacements that provide for fish passage at all life stages. In some cases, the NJI.1FS recommendations are framed in terms of ranges of buffer widths rather than point estimates, and expressed as probabilities of achieving desired outcomes. Local conditions and local circumstances matter, and may affect the choice of the riparian buffer most effective at achieving salmon recovery. Buffer widths may be less than specified in the table in cases where there is a scientific basis for doing so and all affected tribes in the watershed agree to deviations from the NMFS guidelines or where there are physical constraints on an individual parcel (e.g. transportation corridors, structures, naturally occurring).

SECTION 36. ORDER OF PRECEDENCE
This Agreement is entered into, pursuant to, and under the authority granted by applicable federal and state laws. The provisions of the Agreement shall be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute, rule, or policy or procedure, the inconsistency shall be resolved by giving precedence in the following order:
A. Federal law and binding executive orders;
B. Code of federal regulations;
C. Terms and conditions of a grant award to the state from the federal government;
D. Federal grant program policies and procedures adopted by a federal agency;
E. State law;
F. Washington Administrative Code;
G. Project Agreement;
H. Board policies and procedures.

SECTION 37. AMENDMENTS
Amendments to this Agreement shall be binding only if in writing and signed by personnel authorized to bind each of the parties except period of performance extensions in and minor scope adjustments need only be signed by RCO's director or designee, unless the consent of the sponsor to an extension or scope adjustment is required by its auditing policies, regulations, or legal requirements, in which case, no extension shall be effective until so consented.

SECTION 38. LIMITATION OF AUTHORITY
Only RCO or RCO's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by RCO.

SECTION 39. WAIVER OF DEFAULT
Waiver of any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of the Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless stated to be such in writing, signed by the director, or the director's designee, and attached to the original Agreement.

SECTION 40. APPLICATION REPRESENTATIONS – MISREPRESENTATIONS OR INACCURACY OR BREACH
The funding board and RCO rely on the sponsor's application in making its determinations as to eligibility for, selection for, and scope of, funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.
SECTION 41. SPECIFIC PERFORMANCE
The funding board and RCO may enforce this Agreement by the remedy of specific performance, which usually will mean completion of the project as described in this Agreement. However, the remedy of specific performance shall not be the sole or exclusive remedy available to RCO. No remedy available to the funding board or RCO shall be deemed exclusive. The funding board or RCO may elect to exercise any, a combination of, or all of the remedies available to it under this Agreement, or under any provision of law, common law, or equity.

SECTION 42. TERMINATION
The funding board and RCO will require strict compliance by the sponsor with all the terms of this Agreement including, but not limited to, the requirements of the applicable statutes, rules and all funding board and RCO policies, and with the representations of the sponsor in its application for a grant as finally approved by the funding board. For federal awards, notification of termination will comply with 2 C.F.R. § 200.340.

A. For Cause. The funding board or the director may suspend or terminate the obligation to provide funding to the sponsor under this Agreement:
   1. In the event of any breach by the sponsor of any of the sponsor’s obligations under this Agreement; or
   2. If the sponsor fails to make progress satisfactory to the funding board or director toward completion of the project by the completion date set out in this Agreement. Included in progress is adherence to milestones and other defined deadlines.
   In the event this Agreement is terminated by the funding board or director, under this section or any other section after any portion of the grant amount has been paid to the sponsor under this Agreement, the funding board or director may require that any amount paid be repaid to RCO for redeposit into the account from which the funds were derived.

B. Non Availability of Funds. The obligation of the RCO to make payments is contingent on the availability of state and federal funds through legislative appropriation and state allotment. If amounts sufficient to fund the grant made under this Agreement are not appropriated to RCO for expenditure for this Agreement in any biennial fiscal period, RCO shall not be obligated to pay any remaining unpaid portion of this grant unless and until the necessary action by the Legislature or the Office of Financial Management occurs. If RCO’s participation is suspended under this section for a continuous period of one year, RCO’s obligation to provide any future funding under this Agreement shall terminate. Termination of the Agreement under this section is not subject to appeal by the sponsor.

C. For Convenience. Except as otherwise provided in this Agreement, RCO may, by ten (10) days written notice, beginning on the second day after the mailing, terminate this Agreement, in whole or in part. If this Agreement is so terminated, RCO shall be liable only for payment required under the terms of this Agreement for services rendered or goods delivered prior to the effective date of termination.

SECTION 43. DISPUTE HEARING
Except as may otherwise be provided in this Agreement, when a dispute arises between the sponsor and the funding board, which cannot be resolved, either party may request a dispute hearing according to the process set out in this section. Either party’s request for a dispute hearing must be in writing and clearly state:
A. The disputed issues;
B. The relative positions of the parties;
C. The sponsor’s name, address, project title, and the assigned project number.

In order for this section to apply to the resolution of any specific dispute or disputes, the other party must agree in writing that the procedure under this section shall be used to resolve those specific issues. The dispute shall be heard by a panel of three persons consisting of one person chosen by the sponsor, one person chosen by the director, and a third person chosen by the two persons initially appointed. If a third person cannot be agreed on, the third person shall be chosen by the funding board’s chair.

Any hearing under this section shall be informal, with the specific processes to be determined by the disputes panel according to the nature and complexity of the issues involved. The process may be solely based on written material if the parties so agree. The disputes panel shall be governed by the provisions of this Agreement in deciding the disputes.

The parties shall be bound by the decision of the disputes panel, unless the remedy directed by that panel shall be without the authority of either or both parties to perform, as necessary, or is otherwise unlawful.

Request for a disputes hearing under this section by either party shall be delivered or mailed to the other party. The request shall be delivered or mailed within thirty (30) days of the date the requesting party has received notice of the action or position of the other party which it wishes to dispute. The written Agreement to use the process under this section for resolution of those issues shall be delivered or mailed by the receiving party to the requesting party within thirty (30) days of receipt by the receiving party of the request.

All costs associated with the implementation of this process shall be shared equally by the parties.

SECTION 44. ATTORNEYS’ FEES
In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.
SECTION 45. GOVERNING LAW/VENUE
This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington. In the event of a lawsuit involving this Agreement, venue shall be in Thurston County Superior Court if legally proper; otherwise venue shall be in a county where the project is situated. The sponsor, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

SECTION 46. PROVISIONS APPLICABLE ONLY IF FEDERALLY RECOGNIZED INDIAN TRIBE IS THE SPONSOR
In the cases where this Agreement is between the funding board (State) and a federally recognized Indian Tribe, the following governing law/venue applies, but only between those parties:

A. Notwithstanding the above venue provision, if the State of Washington intends to initiate a lawsuit against a federally recognized Indian tribe relating to the performance, breach or enforcement of this Agreement, it shall so notify the Tribe. If the Tribe believes that a good faith basis exists for subject matter jurisdiction of such a lawsuit in federal court, the Tribe shall so notify the State within five days of receipt of such notice and state the basis for such jurisdiction. If the Tribe so notifies the State, the State shall bring such lawsuit in federal court; otherwise the State may sue the Tribe in the Thurston County Superior Court. Interpretation of the Agreement shall be according to applicable State law, except to the extent preempted by federal law. In the event suit is brought in federal court and the federal court determines that it lacks subject matter jurisdiction to resolve the dispute between the State and Tribal Party, then the parties agree to venue in Thurston County Superior Court.

B. Any judicial award, determination, order, decree or other relief, whether in law or equity or otherwise, resulting from such a lawsuit shall be binding and enforceable on the parties. Any money judgment or award against a Tribe, tribal officers, employees, and members, or the State of Washington and its officers and employees may exceed the amount provided for in Section F: Project Funding of the Agreement in order to satisfy the judgment.

C. The Tribe hereby waives its sovereign immunity for suit in federal and state court for the limited purpose of allowing the State to bring such actions as it determines necessary to give effect to this section and to the enforcement of any judgment relating to the performance, or breach of this Agreement. This waiver is not for the benefit of any third party and shall not be enforceable by any third party or by any assignee of the parties. In any enforcement action, the parties shall bear their own enforcement costs, including attorneys' fees.

For purposes of this provision, the State includes the RCO and any other state agencies that may be assigned or otherwise obtain the right of the RCO to enforce this Agreement.

SECTION 47. SEVERABILITY
The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.
Eligible Scope Activities

Project Sponsor: Whatcom County Parks & Recreation
Project Title: Plantation Indoor Range HVAC Replacement
Program: Firearms & Archery Range Rec.

Project Number: 14-1127
Project Type: Development
Approval: 7/1/2015

Project Metrics

Sites Improved
Project acres developed: 8.00
Project acres renovated: 0.00

Development Metrics

Worksite #1, Plantation Indoor Range

Buildings and Structures
Construct indoor range
Number of indoor ranges: 0 new, 1 renovated
Indoor range amenities:

Permits
Obtain permits

Architectural & Engineering
Architectural & Engineering (A&E)
# Milestone Report By Project

**Project Number:** 14-1127 D  
**Project Name:** Plantation Indoor Range HVAC Replacement  
**Sponsor:** Whatcom County Parks & Rec  
**Project Manager:** Kyle Guzlas

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<th>X</th>
<th>Milestone</th>
<th>Target Date</th>
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<td>Cultural Resources Complete</td>
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<td>RCO has completed cultural resources consultation with Native American tribes and the Department of Archaeology and Historic Preservation. No further cultural resource investigation is required at this time. DAHP Log No: 072015-14-RCFB</td>
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<td>60% Plans to RCO</td>
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<td>Final Report in PRISM</td>
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<td>Agreement End Date</td>
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**X** = Milestone Complete  
**!** = Critical Milestone
MEMORANDUM

TO: County Executive Jack Louws and Honorable Members of the Council

FROM: Michael McFarlane, Director

DATE: September 23rd, 2015

RE: Plantation Rifle Range HVAC RCO Grant Project Agreement 14-1127D

Enclosed find two copies of a grant Project Agreement (14-1127D) between Whatcom County and the Washington State Recreation and Conservation Office for replacement of the HVAC system in the indoor range at the Plantation Rifle Range.

I am requesting approval of the grant and authorization for the County Executive to enter into the project agreement. Grant funding in the amount of $144,900 is being provided through the Firearms and Archery Range Recreation Program (FARR). The County’s portion of the local match in the amount of $145,000 was approved previously in the 2015 budget (ASR#2015-5355). Total cost of the project is estimated at $289,900.

Please contact me at 5855 if you have any questions or require additional information.

Thank you
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
--- | --- | --- | --- | --- | ---
Originator: | LR | 09/04/15 | | 10/13/15 | Finance / Council
Division Head: | | 9/14/15 | | |
Dept. Head: | | 9/16/15 | | |
Prosecutor: | | 09/08/15 | | |
Purchasing/Budget: | | 09/22/15 | | |
Executive: | | | | |

TITLE OF DOCUMENT:
Northwest Regional Council (NWRC) Jail’s Nursing Services Contract Amendment

ATTACHMENTS:
Letter to Jack Louws
Northwest Regional Council Contract Amendment

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

Northwest Regional Council provides Nursing Services for the Whatcom County Jail and Work Center. This amendment extends the contract to provide a limited number of hours (15-20) of basic nursing services to Juvenile Detention and adds approximately 20 hours of nursing services to the downtown jail.

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, Sheriff
RE: Addendum #1 to Northwest Regional Council Nursing/Medical Administration Contract # 201411031
DATE: September 4, 2015

Enclosed are two (2) originals of Addendum #1 to Whatcom County Nursing and Medical Administration Services Contract with #201411031 between the Whatcom County Jail and Northwest Regional Council for your review and signature.

- Background and Purpose
The Corrections Bureau has an existing contract with NWRC to provide nursing and medical administration services to offenders at the downtown jail and the work center. This amendment extends the contract to provide a limited number of hours (15-20) of basic nursing services to Juvenile Detention, and adds approximately 20 hours of nursing services to the downtown jail.

Juvenile Detention lost their Nurse Practitioner to retirement at the beginning of this year. Despite a variety of efforts, they have been unable to find someone who was willing to contract with Juvenile to provide these services. After discussion between Chief Jones, Detention Manager Robin Fjellman and NWRC, it was determined that if the Corrections contract was extended to cover the nursing services, Detention could take advantage of the already existing administrative and medical oversight infrastructure needed in order for the nurse to provide care.

While the number of inmates has fallen somewhat this year, the acuity of medical issues has continued to increase. The additional 20 hours of nursing time will assist in providing legally mandated care.

- Funding Amount and Source
Funding for this Agreement will be from 2 areas: Juvenile Services, cost center 1970. The second funding source will be out of the Corrections budget, cost center 118160.6635.003. The maximum annual compensation to the Contractor for 2015 will not exceed $1,111,221.
• **Differences from Previous Contract** This contract reflects an increase in the annual compensation to NWRC from $1,082,800 to $1,111,221 to reflect the addition of up to 20 hours of nursing services a week for Juvenile Detention and an increase of 20 hours a week in nursing time for the downtown Jail at a higher hourly rate of compensation. Funds for this contract are available in both the Corrections and Juvenile Detention budgets.

Please contact Wendy Jones at extension 6505, if you have any questions or concerns regarding the terms of this agreement.
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Sheriff/Corrections</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Wendy Jones</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Northwest Regional Council</td>
</tr>
</tbody>
</table>

**Is this a New Contract?**  Yes ☒  No ☐
**Original Contract #:**  201411031

**Does contract require Council Approval?**  Yes ☒  No ☐

**Is this a grant agreement?**  Yes ☒  No ☐

**Is this contract grant funded?**  Yes ☒  No ☐

**Is this the result of a RFP or Bid process?**  Yes ☒  No ☐
**Cost Center:**  118160.6635.003

**Is this agreement excluded from E-Verify?**  Yes ☒  No ☐

**If YES, indicate exclusion(s) below:**
- ☒ Professional services agreement for certified/licensed professional.
- ☐ Contract work is for less than $100,000.
- ☐ Contract work is for less than 120 days.
- ☐ Interlocal Agreement (between Governments).

**Contract Amount:**
- **sum of original contract amount and any prior amendments:**
  - $270,714 for 3 months

**This Amendment Amount:**
- $28,421.00 for 3 months

**Total Amended Amount:**
- $299,135.00 for 3 months

**Summary of Scope:** To extend the current nursing services currently provided at the Jail and Work Center to Juvenile Detention.

**Term of Contract:**  3 months  **Expiration Date:**  12/31/15

**Contract Routing:**
1. Prepared by: WJ  **Date:**  09/09/15
2. Attorney signoff:  **Date:**  09/10/15
3. AS Finance reviewed:  **Date:**  9/22/15
4. IT reviewed (if IT related):  **Date:**  9/22/15
5. Contractor signed:  **Date:**  10-15
6. Submitted to Exec.:  **Date:**  10-15
7. Council approved (if necessary):  **Date:**  10-15
8. Executive signed:  **Date:**  10-15
9. Original to Council:  **Date:**  10-15
Amendment No. 1
Whatcom County Contract No. 201411031
CONTRACT BETWEEN WHATCOM COUNTY AND NORTHWEST REGIONAL COUNCIL

THIS AMENDMENT #1 is to the Nursing Services contract between Whatcom County and Northwest Regional Council, dated December 10, 2014 and designated “Whatcom County Contract #201411031”. The general purpose or objective of this Agreement is to extend direct nursing services, currently provided at the Jail and Jail Work Center, to Whatcom County Juvenile Detention. This document constitutes a change to the current contract, changing the terms as follows:

EXHIBIT “A” (SCOPE OF WORK) CONTRACTORS RESPONSIBILITIES #1 to read “Supervise the activities of the Jail Health Program (JHP) at the Whatcom County Jail and Jail Work Center and provide Nursing services to Whatcom County Juvenile Detention. It is the JHP’s responsibility to coordinate the delivery of health care to the inmates at the Whatcom County Jail and Work Center, and provide direct nursing services to detainees at Whatcom County Juvenile Detention. The activities of the JHP staff shall be limited to providing or facilitating direct medical, psychiatric or dental care to inmates at the Whatcom County Jail and Work Center and direct nursing care to detainees at Whatcom County Juvenile Detention and coordinating other medical care for Juvenile detainees as is medically indicated.

EXHIBIT “A” (SCOPE OF WORK) CONTRACTORS RESPONSIBILITIES #2 Provide a team of health care professionals to provide health care to the Jail and Jail Work Center inmates and provide nursing services at the level of Registered Nurse (RN) to Juvenile detention for a total of 26,482 hours a year. 15 to 20 hours a week of nursing time will be dedicated to direct nursing services for Juvenile Detention. Services for the Jail and Jail Work Center will include direct nursing, medication deliver, administrative and limited quality assurance services.

EXHIBIT “A” (SCOPE OF WORK) CONTRACTORS RESPONSIBILITIES #25 (New Section) Direct nursing services for Juvenile Detention will include, but not be limited to; Review and follow up on health screening information take at booking by Juvenile detention officers, screen incarcerated Juveniles for any chronic or acute health care issues, obtain orders for medication, or the medication itself, for continuing care of Juveniles in detention, conduct nursing clinics for Juveniles in need of care, refer Juveniles to appropriate resources for more advanced health care when needed, maintain confidential medical records for all Juveniles treated by nursing staff or other providers, obtain outside medical records for detained Juveniles when appropriate, provide copies of inmate
medical records to be transferred with the Juvenile to a receiving institution, provide 15 to 20 hours a week of nursing serviced, depending on the needs of Detention.

EXHIBIT “B” (COMPENSATION) IV 2.: The full range of Contractor’s services shall be billed at the rate of $44.98 per hour for each hour worked by each JHP staff member working in the jail or juvenile detention, starting on October 1 of 2015 for the balance of the year, with the maximum annual compensation under this agreement in the amount of ONE MILLION ONE HUNDRED AND ELEVEN THOUSAND TWO HUNDRED AND TWENTY ONE DOLLARS ($1,111,221) for the entire year of 2015.

The term of this Agreement shall commence on or about the 1st day of October, 2015, regardless of date of signature, and shall, unless terminated or renewed as elsewhere provided in the Agreement, terminate on the 31st day of December, 2015. The term of the original Agreement may be renewed for up to four (4) one-year terms for a total of five (5) years by mutual agreement of the parties. Notice of the intention to extend the agreement shall be presented in writing by either party on or before December 1st of any year.

Unless specifically amended by this agreement, all other terms and conditions of the original agreement and any previous amendments shall remain in full force and effect.

This Amendment takes effect: October 1, 2015, regardless of the date of signature.

IN WITNESS WHEREOF, the parties have executed this Agreement this 35th day of September 2015.

CONTRACTOR:
Northwest Regional Council

Dan Murphy, Executive Director, Northwest Regional Council

STATE OF WASHINGTON
COUNTY OF WHATCOM

On this 25th day of September 2015 before me personally appeared Tom Sebastian, to me known to be the Executive Director of the Northwest Regional Council, 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:

Recommended for Approval:

[Signature] 9/9/15
Sheriff Date

Approved as to form:

Daniel L. Gibson 09/10/15
Prosecuting Attorney Date

Approved:

Accepted for Whatcom County:

By:
Jack Louws, Whatcom County Executive

STATE OF WASHINGTON )
) ss
COUNTY OF WHATCOM )

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

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

CONTRACTOR INFORMATION:

Northwest Regional Council
Dan Murphy, Executive Director

Address:
600 Lakeway Drive Suite 100
Bellingham, WA 98225

Contact Name: Dan Murphy
Contact Phone: 360-676-6749

Contact Email: MurphDK@dshs.wa.gov
2015 Northwest Regional Council
WHATCOM COUNTY COUNCIL AGENDA BILL

Clearances

| Originator: | Initial | Date | | | |
| Division Head: | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to: |
| Dept. Head: | Initial | Date | Oct 6 2015 | | |
| Prosecutor: | Initial | Date | | | |
| Purchasing/Budget: | Initial | Date | | | |
| Executive: | Initial | Date | | | |

TITLE OF DOCUMENT: Cooperative Agreement between The Commodity Credit Corporation and Whatcom County for the purchase of agricultural land easements.

ATTACHMENTS: Memo, Information Sheet, Agreement, Terms and Conditions, Appraisal Specs,

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

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

The Natural Resource Conservation Service (NRCS) is offering Whatcom County 50% cost share for the purchase of two Purchase of Development Rights (PDR) easements through their Agricultural Conservation Easement Program (ACEP) grant. The two easements will be placed on the Grubbs property and on the Justin and Constance Williams property. The ACEP grant works on a reimbursement system. The County will pay the full amount of the easement from Conservation Futures Fund, and then the fund will be reimbursed a few weeks after closing for 50% of the purchase price. Council reviewed PDR applicant properties at their 09/15/15 meeting and approved Resolution 2015-032 which authorized the PDR program administrator to proceed with title and appraisal services for the approved properties. The Grubbs and Williams’ properties were both among the properties confirmed by Resolution 2015-032. Approving this grant agreement will authorize the Executive to sign the agreement.

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: Mark Personius, Assistant Director
       Karin Beringer, Planner I
RE: Cooperative Agreement for Purchase of Agricultural Land Easements
DATE: October 1, 2015

Enclosed are two (2) originals of the Cooperative Agreement between The Commodity Credit Corporation and Whatcom County for your review and signature.

- **Background and Purpose**
  The purpose of this grant agreement is to provide Whatcom County 50% match funding for the purchase prices of two (2) Purchase of Development Right farmland easements: the Grubbs and Williams 1 properties. The grant works on a reimbursement system. The County will pay the full amount of the easement purchase price from Conservation Futures Fund, and then the fund will be reimbursed by the grant a few weeks after closing for 50% of the purchase price.

- **Funding Amount and Source**
  This grant provides $177,500 to be used as match funding on the two properties listed above.

Please contact Karin Beringer at extension 5956 if you have any questions or concerns regarding the terms of this agreement.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Planning &amp; Development Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Karin Beringer</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>The Commodity Credit Corporation</td>
</tr>
</tbody>
</table>

**Is this a New Contract?**  Yes ☑  No ☐  If not, is this an Amendment or Renewal to an Existing Contract?  Yes ☐  No ☑  If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:  

**Does contract require Council Approval?**  Yes ☑  No ☐  If No, include WCC:  
(see Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)  

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

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

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

**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):  
$ 177,500.00  

**This Amendment Amount:**  
$  

**Total Amended Amount:**  
$  

**Summary of Scope:** The Natural Resource Conservation Service (NRCS) is offering Whatcom County 50% cost share for the purchase of two Purchase of Development Rights (PDR) easements through their Agricultural Conservation Easement Program (ACEP) grant. The two easements will be placed on the Grubbs property and on the Justin and Constance Williams property. The ACEP grant works on a reimbursement system. The County will pay the full amount of the easement from Conservation Futures Fund, and then the fund will be reimbursed a few weeks after closing for 50% of the purchase price. Council reviewed PDR applicant properties at their 09/15/15 meeting and approved Resolution 2015-032 which authorized the PDR program administrator to proceed with title and appraisal services for the approved properties. The Grubbs and Williams’ properties were both among the properties confirmed by Resolution 2015-032. Approving this grant agreement will authorize the Executive to sign the agreement.  

**Term of Contract:**  
**Expiration Date:**  

<table>
<thead>
<tr>
<th>Contract Routing:</th>
<th>1. Prepared by: BB</th>
<th>Date: 10/1/15</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Attorney signoff:</td>
<td></td>
<td>Date: 01-15</td>
</tr>
<tr>
<td>3. AS Finance reviewed:</td>
<td></td>
<td>Date: 10-21-15</td>
</tr>
</tbody>
</table>
| 4. IT reviewed (if IT related): |  | Date:  
| 5. Contractor signed: |  | Date:  
| 6. Submitted to Exec.: |  | Date:  
| 7. Council approved (if necessary): |  | Date:  

Contract for Services Agreement  
[Insert more specific appellation]  

Page 2  

V2.0
8. Executive signed: ____________________________ Date: _______________
9. Original to Council: ____________________________ Date: _______________
COOPERATIVE AGREEMENT
between
THE COMMODITY CREDIT CORPORATION
and the
Whatcom County and Whatcom Land Trust

This Cooperative Agreement is entered into by and between the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), on behalf of the Commodity Credit Corporation (CCC), and the Whatcom County and Whatcom Land Trust (hereinafter whether singular or plural ENTITY) for the purchase of agricultural land easements (ALE) under the Agricultural Conservation Easement Program (ACEP). The CCC will utilize the expertise and services of NRCS to perform its duties identified in this Cooperative Agreement. The term “Parties” as used herein refers collectively to NRCS and the ENTITY.

I. AUTHORITY


Whatcom County enters this Cooperative Agreement under the authorities of Whatcom County Ordinance 2002-054 “Establishing an Agricultural Purchase of Development Rights Program and Oversight Committee. Whatcom Land Trust enters this Cooperative Agreement under the authorities of RCW 64.04130 and RCW 84.34.210.

II. PURPOSE

This Cooperative Agreement stipulates the terms and conditions under which NRCS will provide ACEP cost-share assistance to the ENTITY. The ENTITY has signed the Notice of Grant and Agreement Award acknowledging that the award is subject to the terms and conditions of this Cooperative Agreement and all applicable laws, regulations, and policy.

Therefore, the Parties agree to enter into this Cooperative Agreement to purchase agricultural land easements from eligible landowners (Grantors) to protect the agricultural use, future viability, and related conservation values of eligible land by limiting nonagricultural uses of that land or to protect grazing uses and related conservation values by restoring and conserving eligible land. The Parties have identified these eligible lands on attachments to this Cooperative Agreement as Parcels, herein referred to collectively as “Parcels” or individually as “Parcel.”

III. OBLIGATION OF FUNDS

A. Upon execution of this Cooperative Agreement, NRCS will make cost-share assistance available up to the amount specified on the Notice of Grant and Agreement Award for the acquisition by the ENTITY of agricultural land easements on the Parcels listed on attachments to this Cooperative Agreement. To receive this cost-share, the ENTITY must close the agricultural land easements and request payment of the NRCS cost-share in accordance with section VII of this Cooperative Agreement.

B. NRCS may make additional cost-share assistance available in future fiscal years through the execution of mutually acceptable amendments to this Cooperative Agreement that identify the additional cost-share assistance amount, the additional funded Parcels, and the terms and conditions.

NRCS Representative Initial __________
Entity Representative Initial __________
of the funding if different from the terms and conditions identified herein, as provided in section IX.D.

C. Upon mutual agreement of the Parties and execution of an amendment, as provided in section IX.D, NRCS may allow substitution of Parcels at any time, provided the Parcels are of comparable conservation value as determined by the NRCS.

D. This Cooperative Agreement will be for a term of 3 years and not to exceed 5 years. The ENTITY must meet each performance schedule deadline in table 1 unless the ENTITY requests and NRCS grants an extension in writing prior to the original deadline. The performance schedule deadlines for an individual attachment may be extended for one consecutive 12-month period, as provided in section IX.B. Should the ENTITY not meet the performance schedule deadlines, NRCS may release any remaining funds from this Cooperative Agreement.

<table>
<thead>
<tr>
<th>FY of Fund Obligation (Attachment)</th>
<th>Attachment Listing Parcels</th>
<th>Closing Deadline</th>
<th>Payment Request Deadline</th>
<th>Attachment Expiration Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>B</td>
<td>March 31, 2018</td>
<td>July 31, 2018</td>
<td>August 31, 2018</td>
</tr>
<tr>
<td>2017</td>
<td>C</td>
<td>March 31, 2019</td>
<td>July 31, 2019</td>
<td>August 31, 2019</td>
</tr>
</tbody>
</table>

E. Requests for an extension to the attachment expiration deadline must be submitted by the ENTITY to NRCS 30 days in advance of the attachment expiration date.

F. Nothing in this document obligates NRCS or the ENTITY to purchase all or any of the agricultural land easement Parcels listed in the attachments.

IV. FEDERAL SHARE

Based on a determination by NRCS that the ENTITY has satisfied the terms and conditions of this agreement, NRCS will pay the ENTITY a cost-share amount for the purchase of each agricultural land easement acquired by the ENTITY. The Federal share will not exceed 50 percent of the fair market value of the agricultural land easement as determined using one of the methods set forth in 7 CFR Section 1468.24.

V. COOPERATING ENTITY'S CONTRIBUTION

A. The ENTITY will contribute an amount for the easement purchase at least equivalent to the Federal share. The ENTITY may include as part of its contribution a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986) from the eligible landowner if the ENTITY contributes its own cash resources in an amount that is at least 50 percent of the amount contributed by NRCS. If the NRCS State Conservationist has waived a portion of the ENTITY cash contribution requirement for individual projects of special significance, the Parcels receiving the waiver will be identified in the attachment and the ENTITY will provide a copy of the approved waiver at the time payment is requested. The ENTITY’s reduced contribution of its own cash resources for projects of special significance will be in an amount at least [SELECT ONE: 25 or 10] percent of the Federal share.

B. The ENTITY must self-certify on NRCS Form 230, “Confirmation of Matching Funds” (exhibit 4), that the ENTITY’s contribution of its own cash resources has not come from additional donations, payments, loans or fees made by or charged to the Grantor of the agricultural land easement, immediate family members, or organizations controlled by or funded by the Grantor, either through

NRCS Representative Initial

Entity Representative Initial
formal or informal agreements. The ENTITY must provide a completed Form 230 to NRCS for a Parcel prior to the closing or an advance of funds for that Parcel.

VI. PAYMENTS

A. The ENTITY must meet the terms and conditions set forth in this agreement and provide NRCS with the items identified in this section and section VII in order to receive the Federal share for a Parcel.

B. The ENTITY may request payment of the Federal share as reimbursement after closing or as an advance payment prior to closing of an agricultural land easement on a Parcel.

C. To obtain reimbursement or an advance payment of the Federal share, the ENTITY will submit the Form SF-270 (Request for Advance/Reimbursement of Funds (exhibit 5)), the SF-270 supplement for noncertified eligible entities (exhibit 6), and the information and documentation required by the supplement to the NRCS contact named on the Notice of Grant and Agreement Award. The ENTITY may submit the SF-270 payment request package:
   1. 60 days prior to the planned closing date when a payment is to be issued at closing (advance payment);
   2. After the agricultural land easement has been recorded and the landowners have been paid (reimbursement); or
   3. On a quarterly basis for each quarter that agricultural land easements have been recorded and the landowners have been paid (reimbursement).

C. ENTITY will maintain current registration in the Dun and Bradstreet Data Universal Numbering System (DUNS) and meet the System for Award Management (SAM) registration requirements or successor registry for the duration of this Cooperative Agreement.

D. NRCS will disburse payment following receipt of a fully complete SF-270 payment request package from the ENTITY within 30 days if the Federal share for the individual easement is less than $250,000 and within 45 days if the Federal share for the individual easement is $250,000 or greater.

E. If NRCS provides an advance payment the ENTITY will obtain a receipt for the Federal funds from the closing agent and provide it to NRCS prior to closing. The ENTITY will ensure the closing agent does not hold the Federal funds in escrow for more than 30 calendar days. If closing does not occur within 30 calendar days of advance payment, the ENTITY will ensure the Federal funds and any interest earned on those funds while in escrow are returned to NRCS by the 31st calendar day. The ENTITY must ensure that the Federal funds are fully insured while held in escrow.

VII. RESPONSIBILITIES

A. ENTITY Responsibilities:

1. ENTITY will purchase agricultural land easements on eligible land from eligible landowners for the Parcels identified on the attachments to this Cooperative Agreement consistent with the requirements identified in this Agreement. ACEP agricultural land easements are conservation easements conveyed for the purpose of protecting natural resources and the agricultural nature of the land and permit the landowner the right to continue agricultural production and related uses subject to an agricultural land easement plan, as specified in in this part.

2. ENTITY will ensure that agricultural land easements acquired with funds made available under this Cooperative Agreement and that the deeds satisfy the following requirements:
   a. Contain the "Minimum Terms for the Protection of Agricultural Use", attached to this Cooperative Agreement as exhibit 7 (ALE Minimum Deed Terms). The ENTITY is authorized to use its own terms and conditions in the agricultural land easements so long as the ENTITY's additional language does not alter or defeat the intent, purpose or effective enforcement by the Parties of the ALE minimum deed terms, the Agricultural Conservation

NRCS Representative Initial _______

Entity Representative Initial _______
Easement Program, or the agricultural land easements acquired under this Cooperative Agreement.

b. Address all of the minimum deed requirements identified at 7 CFR Section 1468.25(d);

c. Address the disposition of the agricultural land easement and the Federal share in the event the agricultural land easement is ever extinguished, terminated, or condemned in whole or in part.

d. Are conveyed for the purpose of protecting natural resources and the agricultural nature of the land;

e. Run with the land in perpetuity or where State law prohibits a permanent easement, for the maximum duration allowable under State law;

f. Protect the agricultural use, future viability, and related conservation value, of the Parcels by limiting nonagricultural uses of that land or protect grazing uses and related conservation values by restoring and conserving eligible land, including grasslands of special environmental significance;

g. Provide for the administration, management, and enforcement of the agricultural land easement by the ENTITY or its successors and assigns;

h. Permit effective enforcement of the conservation purposes of such easements; and

i. Subject the Parcel to an agricultural land easement plan that meets the requirements of this Section.

3. The ENTITY has the following three options for ensuring that the agricultural land easement contains the ALE Minimum Deed Terms required in paragraph VII.A.2 above:

a. Attach the ALE Minimum Deed Terms Addendum as an Exhibit to the Agricultural Land Easement Deed. Under this option the ENTITY does not need to have the entire agricultural land easement deed reviewed by NRCS, instead NRCS at the State level will verify prior to the ENTITY requesting an advance of the Federal share or closing on an agricultural land easement that the ENTITY satisfies all of the following requirements:

(i) The ALE Minimum Deed Terms addendum is signed by the landowner and the ENTITY and will be attached to the agricultural land easement deed at the time of closing and recordation;

(ii) The terms of the ALE Minimum Deed Terms addendum are not modified; and

(iii) The paragraph below is inserted at the bottom of the agricultural land easement deed:

This Agricultural Land Easement is acquired with funds provided, in part, by the Agricultural Conservation Easement Program, (ACEP). The EXHIBIT _____ is attached hereto and incorporated herein by reference and will run with the land in perpetuity for the maximum duration allowed under applicable State laws. As required by 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468 and as a condition of receiving ACEP funds, all present and future use of the Protected Property identified in EXHIBIT _____ is and will remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Terms For The Protection Of Agricultural Use in EXHIBIT _____ that is appended to and made a part of this easement deed.

b. Incorporate the ALE Minimum Deed Terms into the Body of the Agricultural Land Easement Deed. Under this option, the ENTITY shall ensure the terms as stated in in the ALE Minimum Deed Terms addendum are included in the body of the agricultural land easement deed. The ALE Minimum Deed Terms may be formatted to select options where instructed, conform terms to deed formatting, complete terms with required information, and delete instructions to drafters. Each individual agricultural land easement deed must be reviewed and approved by NRCS National Headquarters prior to the ENTITY requesting an advance of the Federal share or closing on an agricultural land easement.

NRCS Representative Initial _________

Entity Representative Initial _________
c. **Entity Agricultural Land Easement Deed Template Approved by NRCS.** Upon mutual agreement of the Partes, the Cooperative Agreement may be amended to replace or supplement the attached exhibit 7 with an agricultural land easement deed template to be used for every Parcel listed on attachments to this Cooperative Agreement. The terms and conditions of the agricultural land easement deed template must contain the ALE minimum deed terms as stated and must be approved by NRCS National Headquarters in advance of the amendment. If the ENTITY uses the approved NRCS NHQ-approved deed template without changing any terms or conditions, then the ENTITY is not required to obtain NRCS NHQ review and approval of the individual, final agricultural land easement deeds. NRCS at the State level will verify prior to the ENTITY requesting an advance of the Federal share or prior to closing on an agricultural land easement that the individual, final agricultural land easement deed is the same as the NHQ-approved template.

4. The ENTITY must provide to NRCS a copy of the agricultural land easement deed and all exhibits at least 90 days before the planned closing date.

5. NRCS may require adjustments to the provisions identified in paragraph VII.A.2 above and require the addition of other provisions if NRCS determines that they are necessary to meet the purposes of ACEP and protect the conservation values of the Protected Property.

6. The ENTITY will perform necessary legal and administrative actions to ensure proper acquisition and recordation of valid agricultural land easements.

7. The ENTITY will pay all costs of agricultural land easement acquisition and will operate and manage each agricultural land easement in accordance with its easement program, this Cooperative Agreement, 16 U.S.C. Section 3865 et seq. and applicable regulations. NRCS will have no responsibility for the costs or management of the agricultural land easements purchased by the ENTITY unless NRCS exercises the rights of the United States under an agricultural land easement.

8. NRCS will not be responsible for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the ENTITY in connection with its acquisition or management of the agricultural land easements acquired pursuant to this Cooperative Agreement. This includes but is not limited to acts and omissions of the ENTITY agents, successors, assigns, employees, contractors, or lessees that result in violations of any laws and regulations that are now or that may in the future become applicable.

9. The ENTITY will prepare a baseline documentation report documenting the condition of the Parcel as of the time the easement is acquired and include a completed baseline documentation report in the payment request package submitted to NRCS pursuant to part VI. The baseline documentation report must contain maps, full descriptions and pictures of the Parcel location, existing structures and infrastructure, land use, land cover and its condition, and any special features for which the Parcel is being protected. The ENTITY must provide NRCS a draft baseline documentation report at least 90 days before the planned closing date of the agricultural land easement deed.

10. ENTITY will ensure completion of an agricultural land easement plan for each Parcel that must:
   
   a. Meet the requirements for an agricultural land easement plan specified in 7 CFR Section 1468.26(a);
   
   b. Describe the activities that promote the long-term viability of the land to meet the purposes for which the Parcel was selected;
   
   c. Identify required or recommended conservation or management practices or activities that address the purposes and resource concerns for which the Parcel was selected;
   
   d. Require the management of any grasslands according to a grassland management plan or forest lands that exceed the greater of 40 acres or 20 percent of the Parcel according to a forest management plan;
   
   e. Require a conservation plan that meets the requirements of 7 CFR Part 12 for any highly erodible cropland; and

NRCS Representative Initial __________

Entity Representative Initial __________
f. Require, if specified prior to closing, the conversion of highly erodible cropland to less intensive uses.

11. ENTITY will choose one of the options below for completing the agricultural land easement plan by initialing the appropriate box when signing this Cooperative Agreement. (Initial only one option):
   □ a. ENTITY requests that NRCS personnel complete the agricultural land easement plan and ENTITY will coordinate with NRCS State office and landowner to ensure that the plan is completed and signed by the landowner prior to closing.
   □ b. ENTITY will complete the agricultural land easement plan without the assistance of NRCS personnel and at its own expense. ENTITY will ensure the plan meets NRCS standards and specification or other applicable industry standards. ENTITY will provide the plan to NRCS at least 90 days prior to the planned closing date and must obtain NRCS approval of the plan prior to closing. ENTITY will ensure NRCS has authorized access to the property and landowner if needed to review and approve plans prepared using this option. ENTITY will ensure the approved plan is signed by the landowner prior to closing.

12. In acquiring agricultural land easements, the ENTITY will ensure that the title to the lands or interests therein will be unencumbered or that outstanding or reserved interests are subordinated to the agricultural land easement. The ENTITY and NRCS will review the title commitment to ensure there are no encumbrances that would allow nonagricultural uses of the property that are not acceptable to the ENTITY or NRCS. The ENTITY shall provide NRCS a copy of the title commitment or title report, a summary of the ENTITY title review findings, and any other requested documentation related to title at least 90 days before the planned closing date. Any exceptions to the requirement to remove or subordinate outstanding or reserved interests must be consistent with this Cooperative Agreement, 16 U.S.C. Section 3865, and applicable regulations, and approved by NRCS and documented on the certificate of use and consent.

13. The ENTITY will secure proper title evidence and insurance using an owner's American Land Title Association (ALTA) policy with the ENTITY listed as the insured on the policy and the policy issued for the full amount of the agricultural land easement purchase price.

14. The ENTITY will obtain a determination of the fair market value of the agricultural land easement for each Parcel at its own cost using one of the methods set forth in 7 CFR Section 1468.24. Individual appraisals conducted by a certified general appraiser that conform to the NRCS Appraisal Specifications provided as exhibit 6 and either the Uniform Standards of Professional Appraisals Practices (USPAP) or the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 2000) (USFLA). The effective date of the appraised value must be within 6 months prior to or after the date the Parcel is added to this agreement as a funded Parcel or within 12 months of the closing date of the agricultural land easement on the Parcel. Use of fair market valuation methodologies other than individual USPAP or USFLA appraisals must be approved by NRCS in writing prior to entering into this Cooperative Agreement.

15. The ENTITY will provide the appraiser the NRCS appraisal specifications (exhibit 6) and all of the items required to be provided by the ENTITY as identified in the NRCS appraisal specifications. The ENTITY must receive a separate appraisal report for each funded Parcel identified on an attachment. Under no circumstances will the ENTITY allow the landowner to approve or disapprove of the appraiser selected to prepare the appraisal report. The landowner will not be listed as the client.

16. The ENTITY must provide NRCS a completed appraisal report at least 90 days before the planned closing of the agricultural land easement so that NRCS may conduct a technical review of the appraisal. The ENTITY will not close the agricultural land easement until the technical reviewer approves the appraisal report. If the ENTITY closes the agricultural land easement prior to the

NRCS Representative Initial __________

Entity Representative Initial __________
approval of the appraisal by the technical reviewer NRCS may not provide the Federal share for the agricultural land easement and may terminate this agreement.

17. The ENTITY will not use ACEP funds to acquire an easement on a property in which the ENTITY's employee or board member with decision-making involvement in easement acquisition and management matters has a property interest or whose immediate family member or household member has a property interest. The ENTITY agrees to conduct itself in a manner so as to protect the integrity of agricultural land easements it holds and avoid the appearance of impropriety or actual conflicts of interest in its acquisition and management of agricultural land easements.

18. The ENTITY will not at any time, when the ENTITY is named as a Grantee on the agricultural land easement, seek to acquire the remaining fee interest in the Parcel. Likewise, if the ENTITY enters into an agreement with another entity to manage or monitor the agricultural land easement, and that entity seeks to acquire the underlying fee, the ENTITY agrees to immediately terminate such agreement and arrange for an uninterested party to manage or monitor the Parcel.

19. The ENTITY will implement easement enforcement procedures when a violation of the agricultural land easement or agricultural land easement plan is identified by or reported to the ENTITY. ENTITY enforcement procedures resulting from a violation of a conservation plan can only be initiated after all administrative and appeal rights have been exhausted by the landowner in accordance with 7 CFR Part 12 and 7 CFR Part 614.

20. The ENTITY will submit a completed Federal Financial Report Standard Form 425 (FFRs) (exhibit 2) to the NRCS State office at least 5 business days prior to the end of each fiscal quarter (December 31, March 31, June 30, and September 30) for each quarter the ENTITY closes an agricultural land easement on a Parcel. Reports must be submitted on an accrual accounting basis. Failure to submit complete reports in accordance with the above schedule may result in suspension or termination of the Cooperative Agreement. A final FFR must be submitted no later than 90 days after the end date of the Cooperative Agreement.

21. At a minimum, the ENTITY will monitor every agricultural land easement on an annual basis to ensure and document compliance with the easement deed and agricultural land easement plan provisions. Each year the ENTITY will submit the annual monitoring report for that year to the appropriate NRCS State office in the format required by NRCS.

22. Nongovernmental organizations must continue to meet the definition of nongovernmental organization in 7 CFR Section 1468.3 for the entire term of this agreement.

23. This paragraph and paragraphs 2, 7, 8, 9, 10, 17, 18, 19, 20, and 21 of this section VII.A will survive the closing of the agricultural land easement and the termination or expiration of this Cooperative Agreement.

B. NRCS Responsibilities:

1. The United States, by and through NRCS, will review applications submitted by the ENTITY, determine land and landowner eligibility, rank eligible applications, obtain and review a hazardous substance record search, conduct an onsite visit, and authorize Parcels to be added to the attachments to this Cooperative Agreement as tentatively selected for funding or as substitutes.

2. NRCS will provide technical and other services as requested and to the extent resources allow to assist in developing an agricultural land easement plan that meets ACEP requirements and NRCS standards and specifications or other applicable industry standards.

3. NRCS will manage the funds obligated to this Cooperative Agreement and subject to the availability of funds, disburse the appropriate funds to the ENTITY in accordance with this Cooperative Agreement.

4. After the required materials have been submitted by the ENTITY, prior to closing, NRCS will:

NRCS Representative Initial __________

Entity Representative Initial __________
a. Review the agricultural land easement deed based on the option selected by the ENTITY for incorporating the ALE minimum deed terms, and provide the ENTITY with any approval instructions or items requiring resolution.

b. Review the title documents submitted by the ENTITY, complete a certificate of use and consent, and provide the findings to the ENTITY for information or remedy as necessary.

c. Conduct a technical review of the appraisal submitted by the ENTITY and provide the findings to the ENTITY for information or resolution as necessary.

d. As requested by the ENTITY, either develop or review the agricultural land easement plan, and identify any items for resolution to the ENTITY.

e. Review the draft baseline documentation report provided by the ENTITY and notify the ENTITY if additional information is needed; and

f. Review and provide notice of determination on any waiver requests submitted by the ENTITY in accordance with ACEP policy.

g. After NRCS reviews are completed and the materials are determined acceptable, provide the ENTITY with an “Approval for a Non-Certified Eligible Entity to Proceed with the ALE Acquisition” letter and the NRCS-signed “Confirmation of Matching Funds.”

5. If an advance payment is requested, NRCS will also provide a copy the NRCS closing agent requirements to the ENTITY.

6. Prior to NRCS disbursement of funds, the NRCS State Conservationist will verify that the ENTITY has provided all documentation, certifications and information required by sections VI and VII.A. NRCS will conduct an internal review of the SF-270 payment request package in accordance with NRCS easement acquisition internal controls policy. The NRCS State office will submit a copy of the payment request package for national review and approval for all agricultural land easement payments that meet the national review threshold. Complete payment request packages for national review must be submitted by NRCS at the State level to NRCS NItQ no less than 30 days before the planned closing date.

7. NRCS will certify payment and disburse funds, for Parcels listed as funded on the attachments to this Cooperative Agreement when the ENTITY has requested payment by the payment request deadline and acquired agricultural land easements on the funded Parcels by the closing deadline, consistent with the requirements of this agreement.

8. NRCS will review the annual monitoring reports provided by the ENTITY to ensure monitoring is conducted annually and reports are sufficient and submitted to NRCS annually for every NRCS-funded conservation easement held by the ENTITY.

VIII. PUBLIC INFORMATION

A. The ENTITY agrees to acknowledge NRCS cost-share assistance in any public outreach materials or events related to agricultural land easements acquired pursuant to this Cooperative Agreement and to provide draft copies of such information to the NRCS State office for review and comment before public release.


IX. GENERAL PROVISIONS

A. This Cooperative Agreement constitutes financial assistance and, therefore, all Federal laws, regulations, and Executive orders are applicable, including 2 CFR Parts 25, 170, 200, and 400.

B. It is the intent of NRCS to fulfill its obligations under this Cooperative Agreement. However, NRCS cannot make commitments in excess of funds authorized by law or made administratively available. If

NRCS Representative Initial

Entity Representative Initial
NRCS cannot fulfill its obligations under this Cooperative Agreement because of the unavailability of funds, this Cooperative Agreement will automatically terminate.

C. No assignment, in whole or in part, will be made of any right or obligation under this Cooperative Agreement without the joint approval of both NRCS and the ENTITY. Nothing herein will preclude NRCS or the ENTITY from entering into other mutually acceptable arrangements or agreements, except as identified in section VII.A.18 of this Cooperative Agreement. Such documents will be in writing, will reference this Cooperative Agreement, and will be maintained as part of the official Cooperative Agreement file.

D. This Cooperative Agreement may be amended or modified by written amendment signed by the authorized officials of the NRCS and the ENTITY.

E. NRCS may terminate this Cooperative Agreement if NRCS determines that the ENTITY has failed to comply with the provisions of this Cooperative Agreement or if it determines that it is in the best interests of the Federal Government to terminate. In the event that this Cooperative Agreement is terminated for any reason, the financial obligations of the Parties will be as set forth in 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.”

F. If any recipient of Federal funds under this Cooperative Agreement fails to comply with the terms and conditions of this Cooperative Agreement, NRCS reserves the right to wholly or partially recapture funds provided in accordance with regulatory publications.

X. ATTACHMENTS and EXHIBITS

Attachment 1 - NRCS-ADS-093, Notice of Grant and Agreement Award
Attachment A – List of Agricultural Land Easement Parcels funded by NRCS

Exhibit 1 – NRCS General Terms and Conditions – Grants and Cooperative Agreements
Exhibit 3 – Representation Regarding Felony Convictions and Tax Delinquent Status for Corporate Applicants (AD-3031)
Exhibit 4 - NRCS Form 230, “Confirmation of Matching Funds”
Exhibit 5 - SF-270, “Request for Advance/Reimbursement of Funds”
Exhibit 6 - SF-270 Supplement for Noncertified Eligible Entities
Exhibit 7 - Minimum Terms for the Protection of Agricultural Use (ALE Minimum Deed Terms addendum)

| PROGRAM: ACEP Funds Authorized Date 08/25/15 |
| Name/Title |  |
| SANDRA CRUSCH |  |
| PN: ACEP Funds Available |  |
| Name/Title |  |
| Amount: $177,500 |  |
| Acat. Code: _NR,S1,ACEA.53,HMP,15XXF |  |
| Funds Reservation: 7500530983 Grubs & $50,000 750030938 Williams $127,500 |  |

Approved as to form:

Prosecuting Attorney Date

NRCS Representative Initial

Entity Representative Initial
Whatcom County

Recommended for approval

By: ________________________________

Title: Whatcom County Executive

Date: _____________________________

STATE OF WASHINGTON          )
COUNTY OF ______________________ ) ss.

On this _______ day of ___________, 2015 before me personally appeared
____________________ to me know to be the County Executive of Whatcom County and who
executed the above instrument and who acknowledged to me the act of signing and sealing
thereof.

______________________________

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

______________________________

My commission expires _____________
Exhibit 1

NATURAL RESOURCES CONSERVATION SERVICE
U.S. DEPARTMENT OF AGRICULTURE

GENERAL TERMS AND CONDITIONS
GRANTS AND COOPERATIVE AGREEMENTS

I. APPLICABLE REGULATIONS

a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. (The full text of Code of Federal Regulations references may be found at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.)

1. 7 CFR Section 3015.205, "General Provisions for Grants and Cooperative Agreements with Institutions of Higher Education, Other Nonprofit Organizations, and Hospitals"
2. 7 CFR Part 3016, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"
3. 7 CFR Part 3017, "Governmentwide Debarment and Suspension (Nonprocurement)"
4. 7 CFR Part 3018, "New Restrictions on Lobbying"
5. 7 CFR Part 3019, "Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals, and Nonprofit Organizations"
6. 7 CFR Part 3021, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
7. 7 CFR Part 3052, "Audits of States, Local Governments, and Nonprofit Organizations"
8. 2 CFR Part 215, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"
9. Office of Management and Budget (OMB) Circular No. A-102, "Uniform Administrative Requirements for Grants and Cooperative Agreements with State and Local Governments" (including Indian Tribal governments)
10. 2 CFR Part 25, "Universal Identifier and Central Contractor Registration"
11. 2 CFR Part 170 "Reporting Subaward and Executive Compensation Information"

b. The recipient, and recipients of any subawards under this award, assures and certifies that it will comply with the following regulations, as applicable. (The full text of Code of Federal Regulations references may be found at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1.)

1. 7 CFR Part 3017, "Governmentwide Debarment and Suspension (Nonprocurement)"
2. 7 CFR Part 3018, "New Restrictions on Lobbying"
3. 7 CFR Part 3021, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
4. 7 CFR Part 3052, "Audits of States, Local Governments, and Nonprofit Organizations"
6. 2 CFR Section 175, "Award Term for Trafficking in Persons"
c. Allowable project costs will be determined in accordance with the authorizing statute, the
purpose of the award, and to the extent applicable to the type of organizations receiving the
award, regardless of tier. The following portions of the Code of Federal Regulations are
hereby incorporated by reference (the full text of Code of Federal Regulations references may
be found at http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1):

(1) 2 CFR Part 220, "Cost Principles for Institutions of Higher Education"
(2) 2 CFR Part 225, "Cost Principles for State and Local Governments (Including
    Certain Indian Tribal Governments)"
(3) 2 CFR Part 230, "Cost Principles for Nonprofit Organizations"
(4) 48 CFR Part 31, "Contract Cost Principles and Procedures"

II. UNALLOWABLE COSTS

The following costs are not allowed:

a. Costs above the amount authorized for the project
b. Costs incurred after the expiration of the award including any no-cost extensions of time
c. Costs that lie outside the scope of the approved project and any amendments thereto
d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. Questions about the allowability of particular items of costs should be directed
to the NRCS administrative contact identified in the award.

III. CONFIDENTIALITY

a. Activities performed under this award may involve access to confidential and potentially
   sensitive information about governmental and landowner issues. The term "confidential
   information" means proprietary information or data of a personal nature about an individual,
   or information or data submitted by or pertaining to an organization. This information must
   not be disclosed without the prior written consent of NRCS.

b. The recipient’s personnel will follow the rules and procedures of disclosure set forth in the
   Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with
   respect to systems of records determined to be subject to the Privacy Act. The recipient’s
   personnel must also comply with privacy of personal information relating to natural resources
   conservation programs in accordance with section 1244 of Title II of the Farm Security and
   Rural Investment Act of 2002 (Public Law 107-171).

IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also
bound by any other prior approval requirements of the applicable administrative provisions and Federal
cost principles.

a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or
   deliverables, the recipient must submit a written request and justification for the change along
   with the revised purpose or deliverables of the award to the NRCS administrative contact.
   The request should contain the following:
      1. Grant or agreement number
      2. Narrative explaining the requested modification to the project purpose or deliverables
      3. A description of the revised purpose or deliverables
      4. Signatures of the authorized representative, project director, or both

b. Subcontractual Arrangement.—The recipient must submit a justification for the proposed
   subcontractual arrangements, a statement of work to be performed, and a detailed budget for
the subcontract to the NRCS administrative contact. Subcontractual arrangements disclosed in the application do not require additional postaward approval.

c. Absence or Change in Project Leadership.—When a project director or the person responsible for the direction or management of the project—

1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director’s absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.

2. Severs his or her affiliation with the grantee, the grantee’s options include—
   i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include the qualifications and the signature of the replacement signifying his or her willingness to serve on the project.
   ii. Subcontracting to the former project director’s new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director’s new organization certain portions of the project to be completed by the former project director.
   iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.

3. Transfers the award to his or her new organization, the authorized organization’s representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known:
   i. The forms and certifications included in the application package
   ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal)
   iii. An updated qualifications statement for the project director showing his or her new organizational affiliation
   iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization

Note: The transfer of an award from one organization to another can take up to 90 days to accomplish, which may result in a delay in the project director resuming the project at the new organization.

d. Budget Revisions.—Budget revisions will be in accordance with 7 CFR Section 3015.115.

e. No-Cost Extensions of Time.—When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 days before the expiration date of the award. The request must contain the following:
   • The length of additional time required to complete the project and a justification for the extension
   • A summary of progress to date
• An estimate of funds expected to remain unobligated on the scheduled expiration date
• A projected timetable to complete the portions of the project for which the extension is being requested
• Signature of the grantee and the project director
• A status of cost sharing to date (if applicable)

Note: An extension will not exceed 12 months. Only in exceptional cases will more than one extension be granted. Requests for no-cost extensions received after the expiration of the award will not be granted.

V. PAYMENTS

a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS program contact at the address identified in block 7 of the Notice of Grant/Agreement Award.

b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.

c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and 31 CFR Part 205.

d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee’s contractors will not be sent to NRCS for review or approval.

e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subcontract award documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

VI. FINANCIAL REPORTING

a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule (recipients may download the applicable form at http://www.forms.gov):

<table>
<thead>
<tr>
<th>Quarterly Schedule</th>
<th>Report Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>October 1 to December 31</td>
<td>January 31</td>
</tr>
<tr>
<td>January 1 to March 31</td>
<td>April 30</td>
</tr>
<tr>
<td>April 1 to June 30</td>
<td>July 30</td>
</tr>
<tr>
<td>July 1 to September 30</td>
<td>October 30</td>
</tr>
</tbody>
</table>
Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

b. A final Report must be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

VII. PERFORMANCE MONITORING AND REPORTING

a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subcontractual arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

b. Every 6 months the recipient must submit a written progress report. Each report must cover—

1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.

2. The reasons why goals and objectives were not met, if appropriate.

3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.

c. The recipient must submit a final performance report within 90 days after completion of project.

VIII. SPECIAL PROVISIONS

a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.

b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.

c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 7 CFR Section 3019.36. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.

b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor
personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division
Grants and Agreements Team
1400 Independence Avenue, SW.
Room 5221 South Building
Washington, DC 20250

c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.

d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:

- "This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here]."

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- "Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture."

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

X. COST-SHARING REQUIREMENTS

a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award, and must come from non-Federal sources unless otherwise stated in the applicable program announcement.

b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—
   1. Immediately notify the NRCS administrative contact of the situation.
   2. Specify the steps it plans to take to secure replacement cost sharing.
   3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.

c. If NRCS agrees to the organization’s proposed plans, the recipient will be notified accordingly. If the organization’s plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.

d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the
award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.

e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient’s cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

XI. PROGRAM INCOME

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient’s own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

XII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than $5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is $5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

XIII. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

XIV. MODIFICATIONS AND TERMINATIONS

NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties will be those set forth in 7 CFR Part 3015, Subpart N.

XV. AWARD CLOSEOUT

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.
EXHIBIT 2
FEDERAL FINANCIAL REPORT
(Follow form instructions)

1. Federal Agency and Organizational Element to Which Report is Submitted

2. Federal Grant or Other Identifying Number Assigned by Federal Agency (To report multiple grants, use FFR Attachment)

3. Recipient Organization (Name and complete address including Zip code)

4a. DUNS Number
4b. EIN

5. Recipient Account Number or Identifying Number (To report multiple grants, use FFR Attachment)

6. Report Type
   □ Quarterly
   □ Semi-Annual
   □ Annual
   □ Final

7. Basis of Accounting
   □ Cash
   □ Accrual

8. Project/Grant Period (Month, Day, Year)
   From:          To:

9. Reporting Period End Date (Month, Day, Year)

10. Transactions
    (Use lines a-c for single or combined multiple grant reporting)

Federal Cash (To report multiple grants separately, also use FFR Attachment):
   a. Cash Receipts
   b. Cash Disbursements
   c. Cash on Hand (line a minus b)

(Use lines d-c for single grant reporting)

Federal Expenditures and Unobligated Balance:
   d. Total Federal funds authorized
   e. Federal share of expenditures
   f. Federal share of unliquidated obligations
   g. Total Federal share (sum of lines e and f)
   h. Unobligated balance of Federal funds (line d minus g)

Recipient Share:
   i. Total recipient share required
   j. Recipient share of expenditures
   k. Remaining recipient share to be provided (line i minus j)

Program Income:
   l. Total Federal share of program income earned
   m. Program income expended in accordance with the deduction alternative
   n. Program income expended in accordance with the addition alternative
   o. Unexpended program income (line l minus line m or line n)

11. Indirect Expense
    a. Type
    b. Rate
    c. Period From
    d. Period To
    e. Base
    f. Amount Charged
    g. Totals:

12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation:

13. Certification: By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and intent set forth in the award documents. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001)
   a. Typed or Printed Name and Title of Authorized Certifying Official
   b. Signature of Authorized Certifying Official
   c. Telephone (Area code, number, and extension)
   d. Email Address
   e. Date Report Submitted (Month, Day, Year)

14. Agency use only

Paperwork Burden Statement
According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 0348-0061. Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0061), Washington, DC 20503.
U.S. Department of Agriculture

ASSURANCE REGARDING FELONY CONVICTION OR TAX DELINQUENT STATUS FOR CORPORATE APPLICANTS

NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 55a – as amended). The authority for requesting the following information for USDA agencies and offices is in sections 738 and 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. 112-55, and subsequent similar provisions. The information will be used to document compliance with appropriations restrictions.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number of this information collection is 0565-0025. The time required to complete this information collection is estimated to average 3 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud, privacy, and other statutes may be applicable to the information provided.

This award is subject to the provisions contained in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. 112-55, Division A, Sections 738 and 739 for USDA agencies and offices (except Forest Service) regarding corporate felony convictions and corporate federal tax delinquencies.

Accordingly, by accepting this award the recipient acknowledges that it: (1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal or State law within 24 months preceding the award, unless a suspending and debarring official of the United States Department of Agriculture has considered suspension or debarment of the recipient corporation, or such officer or agent, based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of sections, 738 and 739.

APPLICANT’S SIGNATURE (BY)

TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY

BUSINESS NAME

DATE SIGNED (MM-DD-YYYY)

The U.S. Department of Agriculture (USDA) prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual’s income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA’s TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, S.W., Stop 9410, Washington, DC 20250-9410, or call toll-free at (866) 632-9992 (English) or (888) 877-8339 (TDD) or (866) 877-8642 (English Federal-relay) or (800) 845-6136 (Spanish Federal-relay). USDA is an equal opportunity provider and employer.
Statement to Confirm Matching Funds
Agricultural Conservation Easement Program -
Agricultural Land Easement (ACEP-ALE)
For General ACEP-ALE Enrollments

The following information is required prior to the dispersal of the Federal share for the acquisition of a general ACEP-ALE. The purpose of this form is to identify and confirm matching fund sources.

ACEP-ALE Parcel Name ________________________________

NEST Agreement #:______________________ NEST Parcel #:____________________

State_______________________________ County, Parish, or Borough____________________

<table>
<thead>
<tr>
<th>A. Appraised fair market value of the agricultural land easement</th>
</tr>
</thead>
<tbody>
<tr>
<td>B. Grantor (Landowner) donation (the portion of A that is given to the eligible entity by the Grantor as a charitable donation or qualified conservation contribution (as defined by section 170(h) of the Internal Revenue Code of 1986)). Landowner shall not donate any part of C, D, or E back to the eligible entity.</td>
</tr>
<tr>
<td>C. Agricultural land easement purchase price</td>
</tr>
<tr>
<td>D. Eligible entity cash contribution paid to the Grantor from the eligible entity's cash resources* (D must be at least 50% of E unless an eligible entity cash contribution waiver is approved by NRCS. Eligible entity must attach cash contribution waiver approval.)</td>
</tr>
<tr>
<td>E. Federal share paid to the Grantor (Landowner) through eligible entity** (E must not exceed 50% of A)</td>
</tr>
</tbody>
</table>

*Administrative and planning costs are not counted as part of the entity cash contribution or as part of the purchase price.

** ACEP funds provided to the eligible entity must not be used for administrative costs such as appraisal, survey, title insurance, legal fees, easement monitoring, or other related transaction costs or planning costs, such as baseline documentation or agricultural land easement plan development.

<table>
<thead>
<tr>
<th>Administrative Costs Paid By: (enter amount for each item)</th>
<th>Eligible Entity</th>
<th>Landowner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appraisal (by certified appraiser to USPAP/UASFLA standards)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Survey</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Closing Costs (legal fees)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Title Insurance</td>
<td>$</td>
<td>$</td>
</tr>
</tbody>
</table>
| Easement Monitoring  
(landowner cost limited to lesser of 2% or $20,000 of A) | $ | $ |
| Total | $ | $ |
Certifications: ACEP-ALE Statement to Confirm Matching Funds

GRANTOR (Landowner)
I certify that the information on this supporting form for the acquisition of an ACEP-ALE is true, correct, and complete. I have been informed that the dollar amount listed above is the appraised fair market value of the agricultural land, and that I have agreed to grant an agricultural land easement on my property for $_____________(enter purchase price). I understand that false certification has serious consequences and will result in ineligibility for the ACEP.

Grantor (Landowner) Name(s) (please print):__________________________________________
Signature:____________________________________ Date:__________________________
Grantor (Landowner) Name(s) (please print):__________________________________________
Signature:____________________________________ Date:__________________________

GRANTEE (Eligible Entity)
I certify that the information on this form for the acquisition of an ACEP-ALE is true, correct, and complete. I further certify that the eligible entity’s cash contribution of the matching funds listed above have not come from additional donations, payments, loans, or fees made by or charged to the above-mentioned Grantor, immediate family members, or organizations controlled or funded by the Grantor, either through formal or informal agreements. I understand that false certification has serious consequences and will result in ineligibility of the entity for the ACEP.

Eligible Entity Name (please print):__________________________________________
Authorized Official (please print):__________________________________________
Signature by Authorized Official:__________________________________________ Date:__________________________

NRCS
I certify that I have met in person with the Grantor and confirmed all of the information listed above true, correct, and complete. The Grantor has certified that the eligible entity’s cash contribution of the matching funds listed will not come from additional donations, payments, loans, or fees made by or charged to the above-mentioned Grantor, immediate family members, or organizations controlled or funded by the Grantor, either through formal or informal agreements. The Grantor understands that the purchase price is the amount he or she should receive at closing for the purchase of the agricultural land easement. The Grantor further understands that the ACEP-ALE does not require a landowner donation or contributions to stewardship or acquisition funds.

NRCS Representative (please print):
Name:__________________________________________ Title:__________________________________________
Signature by NRCS Representative:__________________________________________ Date:__________________________
REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

1. TYPE OF PAYMENT REQUESTED
   - ADVANCE
   - REIMBURSEMENT

2. BASIS OF REQUEST
   - FINAL
   - PARTIAL

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED

4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY

5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST

8. PERIOD COVERED BY THIS REQUEST
   FROM (month, day, year) TO (month, day, year)

9. RECIPIENT ORGANIZATION
   Name:
   Number and Street:
   City, State and ZIP Code:

10. PAYEE (Where check is to be sent if different than item 9)
    Name:
    Number and Street:
    City, State and ZIP Code:

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED

<table>
<thead>
<tr>
<th>PROGRAMS/FUNCTIONS/ACTIVITIES</th>
<th>(a)</th>
<th>(b)</th>
<th>(c)</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Total program outlays to date</td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>b. Less: Cumulative program income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Net program outlays (Line a minus line b)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Estimated net cash outlays for advance period</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>e. Total (Sum of lines c &amp; d)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>f. Non-Federal share of amount on line e</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>g. Federal share of amount on line e</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>h. Federal payments previously requested</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Federal share now requested (Line g minus line h)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1st month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2nd month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd month</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY

| a. Estimated Federal cash outlays that will be made during period covered by the advance | $ |
| b. Less: Estimated balance of Federal cash on hand as of beginning of advance period | $ |
| c. Amount requested (Line a minus line b) | $ |

AUTHORIZED FOR LOCAL REPRODUCTION

(Continued on Reverse)

STANDARD FORM 270 (Rev. 7-97)
Prescribed by OMB Circulars A-102 and A-110
CERTIFICATION

I certify that to the best of my knowledge and belief the data on the reverse are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.

This space for agency use

PUBLIC REPORTING BURDEN FOR THIS COLLECTION OF INFORMATION IS ESTIMATED TO AVERAGE 50 MINUTES PER RESPONSE, INCLUDING TIME FOR READING INSTRUCTIONS, SEARCHING EXISTING DATA SOURCES, GATHERING AND MAINTAINING THE DATA NEEDED, AND COMPLETING AND REVIEWING THE COLLECTION OF INFORMATION. SEND COMMENTS REGARDING THE BURDEN ESTIMATE OR ANY OTHER ASPECT OF THIS COLLECTION OF INFORMATION, INCLUDING SUGGESTIONS FOR REDUCING THE BURDEN, TO THE OFFICE OF MANAGEMENT AND BUDGET, PAPERWORK REDUCTION PROJECT (0348-0004), WASHINGTON, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

INSTRUCTIONS

Please type or print legibly. Items 1, 3, 5, 9, 10, 11e, 11f, 11g, 11h, 12e, and 13 are self-explanatory; specific instructions for other items as follows:

2 Indicate whether request is prepared on cash or accrued expenditure basis. All requests for advances shall be prepared on a cash basis.

4 Enter the Federal grant number, or other identifying number assigned by the Federal sponsoring agency. If the advance or reimbursement is for more than one grant or other agreement, insert N/A; then, show the aggregate amounts. On a separate sheet, list each grant or agreement number and the Federal share of outlays made against the grant or agreement.

6 Enter the employer identification number assigned by the U.S. Internal Revenue Service, or the FICE (institution) code if requested by the Federal agency.

7 This space is reserved for an account number or other identifying number that may be assigned by the recipient.

8 Enter the month, day, and year for the beginning and ending of the period covered in this request. If the request is for an advance or for both an advance and reimbursement, show the period that the advance will cover. If the request is for reimbursement, show the period for which the reimbursement is requested.

Note: The Federal sponsoring agencies have the option of requiring recipients to complete items 11 or 12, but not both. Item 12 should be used when only a minimum amount of information is needed to make an advance and outlay information contained in item 11 can be obtained in a timely manner from other reports.

11 The purpose of the vertical columns (a), (b), and (c) is to provide space for separate cost breakdowns when a project has been planned and budgeted by program, function, or activity. If additional columns are needed, use as many additional forms as needed and indicate page number in space provided in upper right; however, the summary totals of all programs, functions, or activities should be shown in the "total" column on the first page.

11a Enter in "as of date," the month, day, and year of the ending of the accounting period to which this amount applies. Enter program outlays to date (net of refunds, rebates, and discounts), in the appropriate columns. For requests prepared on a cash basis, outlays are the sum of actual cash disbursements for goods and services, the amount of indirect expenses charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subcontractors and subrecipients. For requests prepared on an accrued expenditure basis, outlays are the sum of the actual cash disbursements, the amount of indirect expenses incurred, and the net increase (or decrease) in the amounts owed by the recipient for goods and other property received and for services performed by employees, contracts, subgrantees and other payees.

11b Enter the cumulative cash income received to date, if requests are prepared on a cash basis. For requests prepared on an accrued expenditure basis, enter the cumulative income earned to date. Under either basis, enter only the amount applicable to program income that was required to be used for the project or program in the terms of the grant or other agreement.

11d Only when making requests for advance payments, enter the total estimated amount of cash outlays that will be made during the period covered by the advance.

13 Complete the certification before submitting this request.

STANDARD FORM 270 (Rev. 7-97) Back
Agricultural Conservation Easement Program – Agricultural Land Easement (ACEP-ALE)

Supplement to the SF-270 for Noncertified Eligible Entities

This supplement and all documents required by this supplement must be completed and attached to the SF-270 for every agricultural land easement for which an advance or reimbursement of ACEP-ALE cost-share assistance is requested by a noncertified eligible entity. The complete SF-270, SF-270 supplement and required documentation must be reviewed and approved by NRCS before NRCS may disburse payment.

<table>
<thead>
<tr>
<th>Eligible Entity Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>NEST Cooperative Agreement Number:</td>
</tr>
<tr>
<td>NEST Parcel ID Number:</td>
</tr>
<tr>
<td>Eligible Entity Tax Identification Number (TIN):</td>
</tr>
<tr>
<td>Eligible Entity DUNS:</td>
</tr>
<tr>
<td>Landowner(s) Name (continue on additional pages and attach if needed):</td>
</tr>
<tr>
<td>Landowner(s) Address:</td>
</tr>
<tr>
<td>Landowner(s) Telephone Number:</td>
</tr>
<tr>
<td>Total Federal Cost-Share Requested from NRCS for the Agricultural Land Easement:</td>
</tr>
</tbody>
</table>

Attach the following to SF-270:

1. A copy of the NRCS approved agricultural land easement deed with all exhibits; if a reimbursement is requested then the deed must be a copy of the recorded document and include a recording receipt
2. NRCS Form 230, “Confirmation of Matching Funds,” for each easement
3. A copy of the agricultural land easement plan signed by the landowner
4. A copy of the baseline documentation report signed by the noncertified eligible entity and the landowner
5. If applicable, a copy of the NRCS approval letter for the waiver of the eligible entity cash contribution requirement
6. For a reimbursement, a copy of the American Land Title Association (ALTA) title insurance policy
7. For an advance:
   a. A complete and signed copy of the “NRCS Closing Agent Requirements”
   b. A copy of the American Land Title Association (ALTA) title commitment
   c. A signed settlement statement prepared by the closing agent
   d. Evidence of liability insurance coverage in an amount at least equal to the Federal funds provided as cost share for the purchase of the agricultural land easement, providing for reimbursement to NRCS for any loss of Federal funds caused by fraud or dishonest or failure by the attorneys, closing agents, or closing agents employees to comply with the written closing instructions

The undersigned noncertified eligible entity certifies that they have participated in the Agricultural Land Easement component of the Agricultural Conservation Easement Program according to all program requirements and the terms and conditions of the above referenced agreement. The undersigned eligible entity will hereafter be referred to as the "participant." The participant certifies that they have received NRCS approval of the appraisal or easement value and that they are acquiring or have acquired an agricultural land easement on land with clear title using a conservation easement deed that contains all of the NRCS required ACEP-ALE Minimum Deed Terms.
The participant certifies that highly erodible land conservation/wetland conservation, adjusted gross income certifications, and member information for all landowners are on file with the appropriate USDA service center agency.

The participant certifies that they are currently registered in the System for Award Management (SAM) and are providing a valid DUNS number on this request. NRCS will not disburse funds for an agricultural land easement until all applicable DUNS and SAM requirements have been met.

It is the responsibility of the participant to provide accurate information to support all items addressed in this SF-270 supplement to the request for payment. False certifications are subject to criminal and civil fraud statutes.

<table>
<thead>
<tr>
<th>Signature of Authorized Entity Representative:</th>
<th>Date:</th>
</tr>
</thead>
</table>

**Privacy Act Notification**

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 552a, as amended). The authority for requesting the information identified on this form are 7 CFR Part 1468, the Commodity Credit Corporation Charter Act, 15 U.S.C. Section 714 et seq., and the Agricultural Act of 2014 (Public Law 113-79). The information will be used to enable Natural Resources Conservation Service to certify payment of cost share assistance through the Agricultural Conservation Easement Program. The information collected on this form may be disclosed to other Federal, State, local government agencies, Tribal agencies, and nongovernmental entities that have been authorized access to the information by statute or regulation and/or as described in applicable routine uses identified in the System of Records Notice for USDA/NRCS-1, Landowner, Operator, Producer, Cooperator, or Participant Files, and USDA/POC-10, Policyholder. Providing the requested information is voluntary. However, failure to furnish the requested information will result in a determination of producer ineligibility to participate in the Agricultural Conservation Easement Program.

**Paperwork Reduction Act Exemption**

This information collection for the Agricultural Conservation Easement Program is exempt from the Paperwork Reduction Act (PRA) as specified in Section 1246 of the Food Security Act of 1985, as amended by Title II of the Agricultural Act of 2014. For those NRCS programs that are not exempt from PRA, NRCS may not conduct or sponsor, and a person is not required to respond to a collection of information unless this collection of information has a valid OMB control number. RETURN THIS COMPLETED FORM TO AN NRCS REPRESENTATIVE AT THE APPLICABLE USDA SERVICE CENTER.

**Nondiscrimination Statement**

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) Persons with disabilities who wish to file a program complaint, write to the address below or if you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint, please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish). If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ascr.usda.gov/complaint_filing_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter by mail to U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, SW., Washington, DC 20250-9410, or fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov). USDA is an equal opportunity provider and employer.
Exhibit 7

AGRICULTURAL CONSERVATION EASEMENT PROGRAM
AGRICULTURAL LAND EASEMENT
MINIMUM DEED TERMS FOR THE PROTECTION OF AGRICULTURAL USE

1) When these terms are appended as an exhibit to the Agricultural Land Easement deed, as opposed to being inserted directly into an Agricultural Land Easement deed, this paragraph will be inserted at the bottom of the ACEP funded Agricultural Land Easement deed:

   This Agricultural Land Easement is acquired with funds provided, in part, under the Agricultural Conservation Easement Program (ACEP). The EXHIBIT ____ is attached hereto and incorporated herein by reference and will run with the land in perpetuity [or for the maximum duration allowed under applicable State laws]. As required by 16 U.S.C. Section 3865 et seq. and 7 CFR Part 1468 et seq. and as a condition of receiving ACEP funds, all present and future use of the Protected Property identified in EXHIBIT ____ (legal description or survey) is and will remain subject to the terms and conditions described forthwith in this Addendum entitled Minimum Deed Terms For The Protection Of Agricultural Use in EXHIBIT ____ that is appended to and made a part of this easement deed.

2) A fully executed copy of the Exhibit below must be attached to the ACEP funded Agricultural Land Easement Deed at the time of closing and recordation or, with NRCS approval, the terms below must be incorporated into the body of the Eligible Entity’s Agricultural Land Easement deed, substituting where desired, the defined term for the Parcel instead of “Protected Property”:

   EXHIBIT ____

   MINIMUM TERMS FOR AGRICULTURAL LAND EASEMENTS

   The Agricultural Conservation Easement Program, 16 U.S.C Section 3865 et seq., facilitated and provided funding for the purchase of an Agricultural Land Easement (ALE) on real property described in Exhibit _____, hereafter referred to as “the Protected Property”, for the purpose of [SELECT ONE: protecting the agricultural use and future viability, and related conservation values, by limiting nonagricultural uses OR protecting grazing uses and related conservation values by restoring and conserving] the Protected Property.

   The [LANDOWNER NAMES] (collectively Grantor), the [ELIGIBLE ENTITY NAMES] (collectively Grantee), and the United States of America (the United States), acting by and through the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) on behalf of the Commodity Credit Corporation (CCC) (jointly referred to as the “Parties”) acknowledge that the ALE is acquired by the Grantee to [SELECT ONE: protect the agricultural use and future viability, and related conservation values, by limiting 1
nonagricultural uses OR protect grazing uses and related conservation values by restoring and conserving] the Protected Property. Baseline conditions of the Protected Property are set forth in a Baseline Documentation Report, a copy of which is [SELECT ONE: appended to this easement deed OR maintained in the files of the Grantee]. Notwithstanding any other provision of the ALE, the Parties agree that all present and future use of the Protected Property is and will remain subject to all of the following terms and conditions identified in Section I and II. If the terms and conditions in Section I and II are inconsistent with terms and conditions in other sections of the ALE, Section I and II will control. If other sections of the of the ALE have terms and conditions that are consistent with, but more restrictive than the terms and conditions in Section I, Paragraphs 1, 2, and 3, those more restrictive terms and conditions will control. If other sections of the ALE are more restrictive than Section I Paragraph 4 and Section II then Section I Paragraph 4 and Section II will control.

SECTION I - MINIMUM CONSERVATION DEED RESTRICTIONS

Even if the Protected Property consists of more than one parcel for real estate tax or any other purpose or if it may have been acquired previously as separate parcels, it will be considered one parcel for purposes of this Easement, and the restrictions and covenants of this Easement will apply to the Protected Property as a whole.

The Grantor and Grantee and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this easement, including the following:

1. Agricultural Land Easement Plan. As required by 16 U.S.C. Section 3865a, agricultural production and related uses of the Protected Property are subject to an ALE Plan, as approved NRCS, to promote the long-term viability of the land to meet the ALE purposes. The ALE Plan must also be approved by the Grantor and the Grantee. Grantor agrees the use of the property will be subject to the ALE Plan on the Protected Property.

The ALE Plan is incorporated by reference and must not include any provisions inconsistent with the conservation purposes of this ALE. The Grantee and Grantor agree to update the Plan in the event the agricultural uses of the Protected Property change. A copy of the current ALE Plan is kept on file with the Grantee.

The Grantee must take all reasonable steps to secure compliance with the ALE Plan. In the event of substantial or ongoing noncompliance with the ALE Plan or the requirement to update the Plan, NRCS may notify the Grantee. NRCS will give the Grantee and Grantor a reasonable amount of time, not to exceed 180 days, to take corrective action. If Grantee fails to enforce the terms of the ALE, including, but not limited to compliance with the ALE Plan, the United States may exercise its right of enforcement.

2. Limitation on Impervious Surfaces. Impervious surfaces will not exceed [Insert approved impervious surface percentage] [Note: if greater than 2 percent, a written waiver
from the Chief of NRCS or his or her authorized designee (Chief of NRCS) is required], of the Protected Property, excluding NRCS-approved conservation practices. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Protected Property; including, but not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. This limitation does not include public roads or other roads owned and controlled by parties with rights superior to those rights conveyed to Grantee by this ALE.

Include the following if limited subdivision is allowed below: [In the event the Protected Property is subdivided as provided for in Section I, Paragraph (3)(A), the total cumulative impervious surface of the subdivided parcels must not exceed the impervious surface limitation referenced above. The Grantor, with Grantee approval, will allocate the impervious surface limit among the subdivided parcels and ensure said impervious surface limitation is clearly defined in each subdivided parcel’s recorded instrument.]

3. Limitations on Nonagricultural Uses. Any activities inconsistent with the purposes of the ALE are prohibited. [Note: The term “ALE grassland enrollments” refers to both general ALE grazing uses enrollments or ALE Grassland of Special Environmental Significance enrollments (GSS).] [Also include the following sentence for ALE grassland enrollments: The provisions of this ALE limit the types of agricultural operations that can occur on the Protected Property to those that restore or conserve grassland, and protect grazing uses, and related conservation values]. The following activities are inconsistent with the purposes of ALE and specifically prohibited, subject to the qualifications stated below:

(A) Subdivision – [Select Option 1, 2, or 3.]

[Option 1] Separate conveyance of a portion of the Protected Property or division or subdivision of the Protected Property is prohibited, except where State or local regulations explicitly require subdivision to construct residences for employees working on the Protected Property. Grantor must provide written notice and evidence of such requirements to Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS) prior to division of the Protected Property.

[Option 2] The Protected Property must not be divided or subdivided into, or separately conveyed as, more than _______ farm or ranch parcels (______ divisions allowed), the boundaries and the allocation of the impervious surface limitation of which have been identified in EXHIBIT ____, which is appended to and made a part of this ALE. To protect the [SELECT ONE: agricultural use and future agricultural viability OR the grassland, grazing uses], and related conservation values of the Protected Property, the boundaries of such divisions have been preapproved in writing by Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS). Deviations from the identified boundaries will not be allowed. Grantor must give Grantee and the Chief of NRCS written notice prior to subdividing, dividing or separately conveying a parcel of the Protected Property.
[Option 3] The Protected Property must not be divided or subdivided into, or separately conveyed as, more than _____ farm or ranch parcels (_____ divisions allowed). To protect the [SELECT ONE: agricultural use and future agricultural viability OR the grassland, grazing uses], and related conservation values of the Protected Property, the boundaries of such divisions must be approved in writing by Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS) before any such division, subdivision or separate conveyance occurs. The Chief of NRCS may only approve the division, subdivision or separate conveyance of the Protected Property into separately conveyable farm or ranch parcels when—

1. The Grantee requests the Chief of NRCS approval to subdivide the Protected Property into separate farm or ranch parcels, after receiving a request from the Grantor;

2. The Grantor certifies to the Chief of NRCS that the requested subdivision is required to keep all farm or ranch parcels in production and viable for agriculture use and that separate conveyance of the Protected Property farm or ranch parcels will move the land from one agricultural operation to another; and

3. The Chief of NRCS determines that the—

   a. Parcels resulting from the subdivision of the Protected Property will meet ACEP land eligibility requirements of 16 U.S.C. Section 3865 et seq. as enacted on the date the original parcel was enrolled in ACEP, including the allocation of the impervious surface limitation between the subdivided parcels, and

   b. The resulting parcel will not be below the median size of farms in the county or parish as determined by most recent United States Department of Agriculture’s National Agricultural Statistical Survey (NASS).

(B) Industrial or Commercial Uses – Industrial or commercial activities on the Protected Property are prohibited except for the following:

(i) agricultural production and related uses conducted as described in the ALE Plan;

(ii) the sale of excess power generated in the operation of alternative energy structures and associated equipment or other energy structures that Grantee approves in writing as being consistent with the conservation purposes of this Easement;

(iii) temporary or seasonal outdoor activities or events that do not harm the agricultural use, future viability, and related conservation values of the Protected Property herein protected;
(iv) commercial enterprises related to agriculture or forestry including but not limited to agritourism, processing, packaging, and marketing of farm or forest products, farm machinery repair, and small-scale farm wineries; and

(v) small-scale commercial enterprises compatible with agriculture or forestry, including but not limited to cafés, shops, and studios for arts or crafts.

(C) Construction on the Protected Property – All new structures and improvements must be located within the Building Envelopes, containing approximately _____ acres and described in EXHIBIT _____, which is appended to and made a part of the ALE.

The boundaries and location of the Building Envelopes may be adjusted if Grantee and the Chief of NRCS provide prior written approval of the adjusted boundaries and location. The Building Envelopes may not increase in size and the adjusted Building Envelopes must provide equal or greater protection of the [SELECT ONE: agricultural use and future viability OR the grassland, grazing uses], and related conservation values of the Protected Property.

Utilities to serve approved buildings or structures, including on-farm energy structures allowed under Section I, Paragraph (4)(C) and agricultural structures that neither individually nor collectively have an adverse impact on the [SELECT ONE: agricultural use and future viability OR grassland, grazing uses] and related conservation values of the Protected Property, may be built outside of the Building Envelope with prior written approval of the Grantee provided that the utilities or agricultural structures are consistent with the ALE Plan described Section I, Paragraph 1.

New roads may be constructed if they are within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property. [The preceding sentence must be struck for ALE grassland enrollments].

Maintenance of existing roads documented on the Baseline Documentation Report is allowed; however, existing roads may not be widened or improved unless widening and improving is within impervious surface limits, approved in advance by Grantee, and necessary to carry out the agricultural operations or other allowed uses on the Protected Property.

Fences may be maintained and replaced and new fences installed if they are necessary for agricultural operations on the Protected Property or to mark boundaries of the Protected Property. [For ALE grassland enrollments replace the preceding sentence with: Fences may be maintained and replaced only in accordance with the ALE Plan. Fences must be consistent with species management requirements.]

(D) Granting of easements for utilities and roads – The granting or modification of
easements for utilities and roads is prohibited when the utility or road will adversely impact [SELECT ONE: the agricultural use and future viability OR the protection of the grazing uses, grassland conservation value], and related conservation values of the Protected Property as determined by the Grantee in consultation with the Chief of NRCS.

(E) **Surface Alteration** – Grading, blasting, filling, sod farming, earth removal or any other activity that will disturb the soil surface or materially alter the topography, surface or subsurface water systems, or wetlands of the Protected Property is prohibited, except as follows:

(i) dam construction to create ponds for agricultural use, fire protection, or wildlife enhancement, or wetland restoration, enhancement or creation, in accordance with an ALE Plan;

(ii) erosion and sediment control pursuant to a plan approved by the Grantee;

(iii) as required in the construction of approved buildings, structures, roads, and utilities provided that the required alteration has been approved in writing by Grantee as being consistent with the conservation purpose of this Easement; or

(iv) [SELECT ONE: Agricultural activities OR Grazing uses or grassland restoration and conservation activities] conducted in accordance with the ALE Plan.

(F) **Oil, Gas, or Mineral Exploration and Extraction** – Mining or extraction of soil, sand, gravel, oil, natural gas, fuel, coal, or any other mineral substance owned by Grantor as of the date of this ALE or later acquired by Grantor, using any surface mining, subsurface mining, or dredging method, from Protected Property is prohibited, except for limited mining activities for materials (e.g., sand, gravel, or shale) used for agricultural operations on the Protected Property. Extraction of materials used for agricultural operations must be limited to a small, defined area or acreage identified in EXHIBIT ___ and must not harm the conservation values or the agricultural uses of the Protected Property.

[Beginning of Alternate Oil and Gas Language: The following may be inserted if Grantee chooses to allow oil and gas exploration and extraction as an alternative to a complete prohibition on oil or gas exploration and extraction on the Parcel: Oil and gas exploration and extraction on the Protected Property is permitted in accordance with this Paragraph (F), if approved by Grantee and NRCS. Grantee and Grantor must demonstrate that such exploration and extraction of oil and gas is—

(i) not accomplished by any surface mining method;

(ii) accomplished by a method of extraction, production, and transport that has no
more than a limited and localized impact that does not harm the agricultural use or conservation values of the Protected Property;

(iii) within the impervious surface limits of the ALE; and

(iv) subject to a plan that includes provisions for oil and gas exploration and extraction.

Any mineral leases or other conveyances of minerals entered into or renewed after the date of this ALE Deed are subordinate to the terms of this Deed and will incorporate by reference this Deed.

Impervious surfaces as defined in [Insert Citation to Impervious Surface Limitation] of this Easement will include any surface disturbance or impervious surfaces associated with oil and gas exploration and extraction associated with uses permitted by this paragraph. End of Alternate Oil and Gas Language]

If a third party owns or leases the oil, natural gas, or any other mineral substance at the time this ALE is executed, and their interests have not been subordinated to this ALE, the Grantor must require, to the greatest extent possible, that any oil, natural gas, and mineral exploration and extraction conducted by such third party is conducted in accordance with this paragraph (F).

(G) [For ALE grassland enrollments] Crop Cultivation. Except for grazing uses and grassland restoration and conservation permitted in [Cite Permitted Uses Section], the cultivation or production of crops, nonperennial forages for human or domestic animal consumption, crop seed production, or planting of orchards, vineyards, berries, tree farms, or other perennial nongrassland agricultural product is prohibited.

4. Preserving Agricultural Uses. The provisions of this ALE Deed and associated exhibits will not be interpreted to restrict the types of agricultural operations that can function on the Protected Property, so long as the agricultural operations are consistent with the ALE Plan and do not violate Federal laws, including Federal drug laws. [The preceding sentence must be struck for ALE grassland enrollments.] No uses will be allowed that decrease the ALE’s protection for [SELECT ONE: the agricultural use and future viability, and related conservation values OR the grazing uses and related conservation values or adversely impact the restoration or conservation of the grassland, and related conservation values] of the Protected Property. Allowed uses of the Protected Property include, the specific uses allowed in Section I, Paragraph (3)(B) (i)-(vii) and the following activities, subject to the qualifications stated below:

(A) Agricultural Production – The production, processing, and marketing of [SELECT ONE: agricultural crops and livestock OR livestock and agricultural products compatible with restoration and conservation of grassland, grazing uses, and related
conservation values] is allowed provided it is conducted in a manner consistent with the terms of the ALE Plan described in Section I, Paragraph 1.

(B) Forest Management and Timber Harvest – Forest management and timber harvesting is allowed, provided it is carried out to the extent practicable, in accordance with current, generally accepted best management practices for the sites, soils, and terrain of the Protected Property. In addition, if the Protected Property contains 40 contiguous acres of forest or 20 percent of the Protected Property is forestland then forest management and timber harvesting must be performed in accordance with a written forest management plan. The forest management plan must be prepared by a professional resource manager, in consultation with the Grantee. A forest management plan will not be required for the following allowed noncommercial activities: (i) cutting of trees for the construction of allowed roads, utilities, buildings and structures on the Protected Property, (ii) cutting of trees for trail clearing, (iii) cutting of trees for domestic use as firewood or for other domestic uses by Grantor, (iv) removal of trees posing an imminent hazard to the health or safety of persons or livestock, or (v) removal of invasive species.

(C) On-Farm Energy Production – Renewable energy production is allowed for the purpose of generating energy for the agricultural and residential needs of the Protected Property. Renewable energy sources must be built and maintained within impervious surface limits, with minimal impact on the conservation values of the Protected Property and consistent with the purposes of the ALE.

(D) Grassland Uses of the Protected Property – Grantors are allowed to graze, hay, harvest for hay and noncrop seed production, mow, construct fire breaks, conduct fire presuppression and rehabilitation activities, and conduct common grazing practices, including cultural practices, consistent with the provisions and conservation purposes of this ALE. The term "common grazing practices" means those practices customary to the region where the Protected Property is located related to livestock grazing, forage management, and maintenance of infrastructure required to conduct livestock grazing on the Protected Property. Grantors must not hay, mow, or harvest for seed during certain nesting seasons for birds whose populations are in significant decline as identified by Grantee or NRCS. Determinations of nesting seasons for birds whose populations are in significant decline will be made in writing to the Grantors, or set forth within the ALE Plan for the Protected Property.

[If Land Eligibility is based on the presence of historical or archaeological resources or the project received ranking points for the multifunctional benefits of agricultural land protection for historical and archaeological resources, include the following paragraph]

5. Historic or Archaeological Resources. Existing archaeologically, culturally, or historically significant features on the Protected Property including, but not limited to, such features as documented in the Baseline Documentation Report, must be maintained consistent with the guidelines provided in The Secretary of Department of the Interior’s Standards for the Treatment
of Historic Properties pursuant to 36 CFR Part 68, as amended. The up-to-date version of such guidelines must be maintained by Grantee in the Baseline Documentation and made available to Grantor upon request. The archaeologically, culturally, or historically significant features may not be altered or removed without Grantee’s prior written approval, which approval will not be given except where the proposed activity is accomplished in accordance with the guidelines provided in The Secretary of The Department of the Interior’s Standards for the Treatment of Historic Properties.

SECTION II - PROTECTION OF THE UNITED STATES’ INTERESTS

1. United States Right of Enforcement. Pursuant to 16 U.S.C. Section 3865 et seq., the United States is granted the right of enforcement that it may exercise only if the terms of the ALE are not enforced by the holder of the ALE. The Secretary of the United States Department of Agriculture (the Secretary) or his or her assigns, on behalf of the United States, may exercise this right of enforcement under any authority available under State or Federal law if the Grantee, or its successors or assigns, fails to enforce any of the terms of this ALE, as determined in the sole discretion of the Secretary.

In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement or remedial action related to the enforcement of this Easement from the Grantor, including, but not limited to, attorney’s fees and expenses related to Grantor’s violations. In the event the United States exercises this right of enforcement, it is entitled to recover any and all administrative and legal costs associated with any enforcement of this Easement from the Grantee, including, but not limited to, attorney’s fees and expenses related to Grantee’s violations or failure to enforce the easement against the Grantor.

The Grantee will annually monitor compliance and provide the United States with an annual monitoring report that documents that the Grantee and Grantor are in compliance with the ALE and ALE Plan. If the annual monitoring report is insufficient or is not provided annually, or if the United States has evidence of an unaddressed violation, as determined by the Secretary, the United States may exercise its right of inspection. For purposes of inspection and enforcement of the ALE, the ALE Plan, and the United States Cooperative Agreement with the Grantee, the United States will have reasonable access to the Protected Property with advance notice to Grantee and Grantor or Grantor’s representative.

In the event of an emergency, the United States may enter the Protected Property to prevent, terminate, or mitigate a potential or unaddressed violation of these restrictions and will give notice to Grantee and Grantor or Grantor’s representative at the earliest practicable time.

3. General Disclaimer. The United States, its employees, agents, and assigns disclaim and will not be held responsible for Grantee’s or Grantor’s negligent acts or omissions or Grantee’s or Grantor’s breach of any representation, warranty, covenant, or agreements contained in this ALE Deed, or violations of any Federal, State, or local laws, including all Environmental Laws
including, without limitation, those that give rise to liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs of actions, or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys’ fees and attorneys’ fees on appeal) to which the United States may be subject or incur relating to the Protected Property.

4. **Environmental Warranty.** Grantor warrants that it is in compliance with, and will remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of, noncompliance or alleged noncompliance with, or any liability under, any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable Federal and State law.

Moreover, Grantor hereby promises to hold harmless and indemnify Grantee and the United States against all litigation, claims, demands, penalties and damages, including reasonable attorneys’ fees, arising from or connected with the release or threatened release of any hazardous materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor’s indemnification obligation will not be affected by any authorizations provided by Grantee or the United States to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee will be responsible for any Hazardous Materials contributed after this date to the Protected Property by Grantee.

“Environmental Law” or “Environmental Laws” means any and all Federal, State, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies, or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection, and similar environmental health, safety, building, and land use as may now or at any time hereafter be in effect.

“Hazardous Materials” means any petroleum, petroleum products, fuel oil, waste oils, explosives, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous wastes, hazardous substances, extremely hazardous substances, toxic substances, toxic chemicals, radioactive materials, infectious materials, and any other element, compound, mixture, solution, or substance that may pose a present or potential hazard to human health or the environment.

5. **Extinguishment, Termination, and Condemnation.** The interests and rights under this Agricultural Land Easement may only be extinguished or terminated with written approval of the
Grantee and the United States. Due to the Federal interest in this ALE, the United States must review and approve any proposed extinguishment, termination, or condemnation action that may affect its Federal interest in the Protected Property.

With respect to a proposed extinguishment, termination, or condemnation action, the Grantee and the United States stipulate that the fair market value of the ALE is _________ percent, hereinafter the “Proportionate Share,” of the fair market value of the land unencumbered by this ALE. The Proportionate Share will remain constant over time.

If this ALE is extinguished, terminated, or condemned, in whole or in part, then the Grantor must reimburse Grantee and the United States an amount equal to the Proportionate Share of the fair market value of the land unencumbered by this ALE. The fair market value will be determined at the time all or a part of this ALE is terminated, extinguished, or condemned by an appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Acquisition Standards or Federal Land Acquisition (UASFLA). The appraisal must be completed by a certified general appraiser and be approved by the Grantee and the United States.

The allocation of the Proportionate Share between the Grantee and the United States will be as follows: (a) to the Grantee or its designee, _________ percent of the Proportionate Share; and (b) to the United States _________ percent of the Proportionate Share. Until such time as the Grantee and the United States receive the Proportionate Share from the Grantor or the Grantor’s successor or assign, the Grantee and the United States each have a lien against the Protected Property for the amount of the Proportionate Share due each of them. If proceeds from termination, extinguishment, or condemnation are paid directly to Grantee, the Grantee must reimburse the United States for the amount of the Proportionate Share due to the United States.

6. Amendment. This ALE may be amended only if, in the sole and exclusive judgment of the Grantee and United States, by and through the Chief of NRCS, such amendment is consistent with the purposes of this ALE and complies with all applicable laws and regulations. The Grantee must provide timely written notice to the Chief of NRCS of any proposed amendments. Prior to the signing and recordation of the amended ALE, such amendments must be mutually agreed upon by the Grantee, Grantor, and United States, by and through the Chief of NRCS. Any purported amendment that is recorded without the prior approval of the United States is null and void.
NRCS ACEP-ALE Appraisal Specifications and Scope of Work

Specifications and Scope of Work for Appraisals of Real Property for the Agricultural Conservation Easement Program Agricultural Land Easement Component
(ACEP-ALE)

A. Background Information

1. The United States of America, acting through the U.S. Department of Agriculture’s Natural Resources Conservation Service (NRCS) and [Eligible Entity name] is considering purchasing a conservation easement to assist the landowner in protecting the agricultural use and future viability and related conservation values by limiting nonagricultural uses of the land or protecting grazing uses and related conservation values on eligible lands. Eligible lands include farm and ranch lands that contain prime, unique, or statewide and locally important soils, contains historical or archaeological resources, or protect grazing uses and related conservation values, or the protection of which will further the purposes of the Agricultural Conservation Easement Program (ACEP). These lands may be placed under a conservation easement through the Agricultural Lands Easement (ACEP-ALE) component of the ACEP.

2. All appraisals completed for ACEP-ALE must comply with appraisal instructions as issued by NRCS. The eligible entity must order the appraisal and be identified as the client. The eligible entity may opt for either of the following two methods to determine the effect of the conservation easement on the subject property:
   a. A Uniform Standards of Professional Appraisal Practice (USPAP) appraisal
   b. A Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA, commonly called Yellow Book)

3. The appraiser must be aware that all appraisal reports completed for ACEP-ALE will be used by NRCS staff and contract review appraisers that will rely on the details in the report to understand the property and market characteristics. Because many of the NRCS users and review appraisers will not personally inspect the property nor be familiar with the local area, the appraisal report must include the level of detail necessary to thoroughly explain and support the property description, highest and best use analysis, market characteristics, adjustment process and all conclusions so that all review appraisers and NRCS users have an adequate understanding of the statements, opinions and conclusions offered within the report.

4. NRCS national appraiser resolves questions that arise from these specifications. Contact information may be obtained through the client from the NRCS State office.

B. Appraiser Qualifications

1. Appraisal reports will not be accepted and approved by NRCS if these qualifications are not met and documentation provided in the appraisal report.

2. All real property appraisers performing appraisals under ACEP-ALE must be State-certified general real property appraiser or obtain a temporary practice permit equal to State-certified general real property appraiser in compliance with title XI of the Financial Institution’s Reform, Recovery and Enforcement Act of 1989 (FIRREA) in the State or States where the subject property is located.

3. Must be in good standing with the licensing authority where the credential was issued.

4. The appraiser must not have received any disciplinary action within the past 5 years resulting in suspension of the credential.

5. The appraiser must have demonstrated competency in compliance with USPAP or UASFLA in conducting appraisals of rural and agricultural properties of the requested type.

6. The appraiser must have demonstrated competency in compliance with USPAP or UASFLA in conducting appraisals of rural and agricultural properties with conservation easements of the requested type.

7. The appraiser must provide documentation of completion of a valuation of conservation easements
or eminent domain appraisal course.

8. The appraiser must provide documentation of completion of a UASFLA (Yellow Book) course for any UASFLA appraisal.

C. Purpose of the Appraisal Report

The applicable purpose of the appraisal report must be stated in the report. The purpose depends upon which of the approved appraisal methods the eligible entity selected.

1. FOR USPAP APPRAISALS: The purpose of the appraisal is to provide an opinion of market value of the proposed easement area before placement of the conservation easement and an opinion of market value of the proposed easement area as if the conservation easement is in place. The difference between these two values will be the effect of the conservation easement on the subject property. An appraisal report, as discussed in USPAP Standards Rule 2-2(a), must be provided; restricted appraisal reports are not acceptable. The appraisal report must contain the level of detail, discussion and support necessary for the client and intended users to comprehensively understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches used in the appraisal. The detail must thoroughly explain and support the property description, highest and best use analysis, market characteristics, adjustment process and all conclusions so that all review appraisers and NRCS users have an adequate understanding of the statements, opinions and conclusions offered within the report.

   a. The market value definition that will be stated and used in developing and reporting this assignment is as follows:

      1. “Market value means the most probable price at which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeable, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby—

          a. Buyer and seller are typically motivated.

          b. Both parties are well informed or well advised and acting in what they consider their own best interests.

          c. A reasonable time is allowed for exposure to the open market.

          d. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto.

          e. The price represents the normal considerations for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.”

   b. No other definition of market value is acceptable for USPAP appraisals.

2. FOR UASFLA/YELLOW BOOK APPRAISALS: The purpose of the appraisal is to provide an opinion of market value of the subject property (larger parcel) before acquisition of a conservation easement (before value) and an opinion of market value of the subject property remaining after the proposed easement has been placed (after value). The appraiser must recognize that in a before and after appraisal, the partial interest being acquired is not actually being appraised. The subject property appraised is the larger parcel before and after the conveyance of the partial interest. The larger parcel concept involves not only the land proposed for the easement area but all surrounding land that meets the definition of larger parcel found in UASFLA.

   a. The purpose of two opinions of value is to establish the effect on value resulting from imposition of a conservation easement. The compensation for the conservation easement is the before value of the larger parcel minus the after value of the property as encumbered by the ACEP agricultural land easement deed, provided there are not adjustments such as excess irrigation water rights explained below, which would equal the price of the easement. A key concept in this appraisal process is defining the larger parcel which is required to begin the appraisal process. The appraisal must be completed in compliance with USPAP, UASFLA, and appraisal instructions issued by NRCS.
b. For the purpose of these appraisals, the Federal rules for acquisition will be used.

c. The market value definition that will be stated and used in developing and reporting this
assignment is the definition as stated in UASFLA:

1. “Market value is the amount in cash, or in terms reasonably equivalent to cash, for which in
all probability the property would have sold on the effective date of the appraisal, after a
reasonable exposure time on the open competitive market, from a willing and reasonably
knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting
under any compulsion to buy or sell, giving due consideration to all available economic
uses of the property at the time of the appraisal.”

d. This definition makes no linkage between the estimated market value and exposure time. A
specific exposure time may not be cited in an appraisal report prepared under Yellow Book
standards. Invoke the jurisdictional exception rule to avoid a violation of USPAP standards,
which require a specific exposure time.

e. No other definition of market value is acceptable for UASFLA/Yellow Book appraisals.

D. Information for the appraiser

The following information is recommended to be provided to the appraiser by the client (eligible
entity):

1. Aerial photograph of the subject property with the location of the proposed easement area identified,
exto the easement area identified, easement boundary identified, and an estimate of the acres in
the proposed easement identified
2. Legal description of subject property’s parent tract
3. Preliminary legal description of the proposed easement area or survey
4. Copy of the proposed conservation easement deed
5. Aerial photograph indicating the location and acreage of any conservation agreement, contract, or
easement of any type that is associated with the property
6. Specific details of any existing easements, reservations or other restriction currently encumbering
the subject property as provided by the landowner
7. Documentation of production data provided by landowner
8. If water rights are included in the easement area, documentation provided by eligible entity will
identify the volume of water rights to be retained for the subject property as necessary
9. Documentation of water rights owned, including name of irrigation company, number of shares or
amount of ownership and documentation concerning irrigation wells on the property to be appraised,
as provided by the landowner
10. Recorded landowner’s name, address and telephone number
11. Current information as to the status of title of ownership, such as copies of deeds
12. If available, completed preliminary certificate of inspection and possession and the hazardous
materials field inspection checklist and any available information pertaining to the probability of
existence of hazardous substances that might be found on the property to be appraised
13. Copy of preliminary title commitment covering the proposed easement area, if available
14. Copy of the completed agricultural land easement plan or component plans, if available
15. A copy of the recorded written access to the easement area, evidence that the property is accessible
from a public road, or NRCS-approved alternative legal access route is required
16. Written permission from the landowner or an authorized representative authorizing the assigned
appraiser to enter the property for appraisal purpose

E. Background for the Appraisal Report

1. Prepare two opinions of value of the subject property. One before placement of the conservation
easement and the second after placement of the conservation easement. The after condition or second
value will be based upon a hypothetical condition that the conservation easement is in place and the
effects on value that may be created. The difference in the two values is the effect of the proposed
conservation easement on the value of the property (fair market value of the Acep-ALE).

2. Client is [eligible entity name], unless otherwise directed by the client. Landowner may not be the client. Landowner is defined as either the current owner or the party identified in the contract to purchase the property from the eligible entity.

3. Intended user must be identified as USDA/NRCS and any other specific organization or eligible entity that may be involved in the specific transaction unless otherwise directed by the client.

4. Intended use will be for USDA/NRCS and any other specific organization or eligible entity that may be involved in the specific transaction, for consideration in determining the effect on value of the conservation easement of lands entering into the Acep-Agricultural Land Easement.

5. Exclusions of approaches to values, as stated in USPAP, must be strongly supported with solid reasoning.

6. Property rights to be appraised will be surface rights, including improvements such as homes, barns, hay sheds and fencing, timber, orchards or other permanent plantings, and any irrigation water rights. The irrigation water rights include wells, ditches, reservoirs, ponds, and lakes that provide irrigation on the subject property and are legally permitted. Crop base and allotments that are located on the subject property will be clearly identified in both the before and after condition. The value of any marketable standing timber that could be economically harvested will be considered by a timber cruise and included in any valuations. Other permanent plantings that are located on the subject property will be appraised and included in any valuations. Any irrigation equipment, such as pivot sprinklers, moveable pipe, towlines, etc., that are located in the proposed easement area will be excluded from the valuation.

7. If irrigation rights are included in the easement area, documentation provided by NRCS will identify the volume of irrigation water rights to be retained for the subject property as necessary to ensure the function of the farmland or ranchland operation and other agricultural conservation values. This volume will also be documented in the easement baseline inventory report exhibit attached to the conservation deed and in the agricultural land easement plan. Irrigation water rights that are legally owned and used on the proposed subject property must be described and valued in the appraisal.

8. The appraiser must document whether or not any portion of these irrigation water rights may be removed from the subject property. If the irrigation water rights may be removed from the property, the appraiser must provide a value opinion of the value of each irrigation water right. The appraiser will consider only the irrigation water rights required to be retained on the subject property as identified by NRCS.

F. The Appraisal Report

1. Description of Work Product
   a. The appraisal must meet the requirements of the Uniform Standards of Professional Appraisal Practice, Uniform Appraisal Standards for Federal Land Acquisitions regulations if applicable and appraisal instructions issued by NRCS including these appraisal specifications.
   b. The appraisal report may consist of a form report, a narrative report, or a combination of both.
   c. An appraisal report, as discussed in USPAP Standards Rule 2-2(a), must be provided; restricted appraisal reports are not acceptable. The appraisal report must contain the level of detail, discussion, and support necessary for the client and intended users to comprehensively understand the rationale for the opinions and conclusions, including reconciliation of the data and approaches used in the appraisal. The detail must thoroughly explain and support the property description, highest and best use analysis, market characteristics, adjustment process and all conclusions so that all review appraisers and NRCS users have an adequate understanding of the statements, opinions and conclusions offered within the report.
   d. The contract appraiser must personally inspect the subject property and comparable sales.
   e. The appraiser must talk personally to the property owner or the owner’s agent or representative, and the property owner or the owner’s agent or representative must be given an opportunity to accompany the appraiser during his or her inspection of the subject property, and this must be
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documented in the appraisal.

f. The Uniform Residential Appraisal Report (URAR) is not acceptable.
g. Reports must contain a table of contents and sequentially numbered pages, including addenda. Reports may contain handwritten page numbers.
h. Reports must contain the instructions or engagement documents provided to the appraiser.
i. Reports must reference all environmental documents utilized by the appraiser in completing the appraisal. The appraiser is a key individual in identifying potential environmental problems that may affect the value of the subject property.
j. The appraiser will contact the client to resolve problems, clarify questions, letters of engagement (call orders), or other issues. Issues relating to the appraisal process may be discussed with the NRCS national appraiser.
k. The effective date of the appraisal report is the date of the site visit by the appraiser.
l. The appraisal must be in typewritten or legible ink print form or in automated or computerized forms.
m. Only reports completed, formatted and submitted on 8½-inch by 11-inch paper will be accepted. An electronic report is also required in pdf format.
n. The appraisal report must be bound in a durable report cover with appropriate identification.
o. The appraiser must provide at least three originals and electronic copy of the appraisal to the specific organization or eligible entity that may be involved in the specific transaction. Reference these instructions, including exhibits, for details on appraisal reports, appraisal forms required, and required methodology and supporting documentation.
p. The eligible entity will provide two originals and an electronic copy to NRCS. One for NRCS, one for the technical review appraiser, and an electronic copy for the NRCS national appraiser and technical review appraiser.

2. Required Elements for ACEP-ALE Appraisals

a. Part 1 - Introduction
   1. Title page
   2. Letter of transmittal
   3. Table of contents
   4. Appraiser's certification (select the appropriate)
      a. Follow USPAP guidelines as applicable, but include the following:

      "I have made a personal inspection of the appraised property which is the subject of this report and all comparable sales used in developing the opinion of value. The date(s) of inspection was, and the method of inspection was. [If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property and sales. The contract appraiser must inspect the appraised property.]

      In my opinion, as of [date], the market value of the proposed easement parcel before conveyance of the partial interest is $, and the market value of the proposed easement parcel after conveyance of the partial interest is $.

      By: [signature] Date signed:
      Print Name
      Printed Name and Professional Accreditation State Certification #"

b. Follow the UASFLA guidelines as applicable, but include the following:
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“I have made a personal inspection of the appraised property which is the subject of this report and all comparable sales used in developing the opinion of value. The date(s) of inspection was ______________________, and the method of inspection was ______________________. [If more than one person signs the report, this certification must clearly specify which individuals did and which individuals did not make a personal inspection of the appraised property and sales. The contract appraiser must inspect the appraised property.]

In my opinion, as of ______________ [date] ______________, the market value of the larger parcel before conveyance of the partial interest is $____________________, and the market value of the remainder after conveyance of the partial interest is $____________________.

By: [signature] Date Signed: __________________________
Print Name
Printed Name and Professional Accreditation State Certification #”

5. Summary of salient facts

6. Photographs of subject property. Provide original color photographs or high-quality color copies of photographs of the appraised property. Photographs may be a separate exhibit in the addenda or included with the narrative description of the appraised property and comparable sales. Show the following information with each photograph:
   a. Identify the photographed scene. Indicate direction of view, vantage point, and other pertinent information.
   b. The name of the photographer.
   c. The date the photograph was taken.
   d. An aerial photo or topographic map should be used to show the location of the photos.

7. Statement of assumptions and limiting conditions.
   a. All appraisal reports submitted to the eligible entity and NRCS for review become the property of the United States and may be used for any legal and proper purpose. Therefore, a condition that limits distribution of the report is not permitted.
   b. Include a statement similar to the following in this section:
      “I recognize that appraisal reports submitted to the NRCS for review may be used by NRCS for any legal and proper purpose.”
   c. If the appraisal has been made subject to any encumbrances against the property, such as easements, that must be stated. It is unacceptable to state that the property has been appraised as if free and clear of all encumbrances, except as stated in the body of the report; the encumbrances must be identified in this section of the report.
   d. The use of a hypothetical condition that provides access for the eligible entity and NRCS to the easement area to restore, monitor, and enforce the purposes for which the easement was placed will be shown on a map of the subject property and may be used in the appraisal due to the actual access documents that may not be in place. This access should be considered legal access for the purposes of the appraisal but it may not meet local requirements for other uses such as subdivisions.
   e. The use of any other hypothetical conditions is not permitted without NRCS concurrence.
   f. The use of an uninstructed, unsupported assumption or hypothetical condition that results in other than “as is” market value will invalidate the appraisal. Include only factors relating to the appraisal problem. Assumptions and limiting conditions that are
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speculative in nature are inappropriate.

g. Do not include limiting conditions that significantly restrict the application of the appraisal.

h. A contract appraiser may not make an assumption or accept an instruction that is unreasonable or misleading. Client instructions must have a sound foundation, be in writing, and be included in the appraisal report.

8. Scope of the appraisal

a. This section must fully describe the extent of investigation and analysis. The scope of work must be consistent with the intended use of the appraisal.

b. Identify the appraisal as a partial acquisition case appraisal. Describe the part being conveyed and the principal differences in the property in the before and after condition. Describe the before and after methodology to be used.

c. Summarize the appraisal problem.

9. Purpose of the appraisal will be as stated in C above.

b. Part 2 - Factual Data

1. Legal description
2. Area, city, and neighborhood data
3. Property data
   a. Site
   b. Improvements
   c. Fixtures, livestock, and forage production structures and facilities
   d. Use history
   e. Sales history (select the appropriate)
      i. For USPAP appraisals include a 3-year record of all sales of the appraised property and offer to buy or sell if the information is available. If no sale has occurred in the past 3 years, the appraiser must report the last sale of the property, irrespective of date.
      ii. For Yellow Book appraisals include a 10-year record of all sales of the appraised property and offer to buy or sell if the information is available. If no sale has occurred in the past 10 years, the appraiser must report the last sale of the property, irrespective of date
   f. Rental history.
      i. A 3-year rental history is required. An unsupported statement that the rent does not represent market or economic rent is unacceptable.
   g. Assessed value and annual tax load.
   h. Zoning and other land use regulations.
      i. The contract appraiser must identify, in addition to zoning, all other land-use and environmental regulations, outstanding rights, and reservations that have an impact on the highest and best use and value of the property.
      j. Appraised property map or plat. Show the dimensions and topography of the appraised property in detail on a large-scale topographic map, at least 2 inches to the mile. The map may be placed here or in the addenda.
   j. Aerial photograph of the subject property with the location of the proposed easement area identified, access to the easement area identified, easement boundary identified, and an estimate of the acres in the proposed easement identified.

c. Part 3 - Data Analysis and Conclusions Before Acquisition
NRCS AEC-P ALE Appraisal Specifications and Scope of Work

1. Analyses of highest and best use
   a. FOR USAPAP APPRAISALS: The contract appraiser may refer to definitions as found in "The Dictionary of Real Estate Appraisal."
   b. FOR YELLOW BOOK APPRAISALS: For acquisition appraisals, UASFLA defines highest and best use as, "The highest and most profitable use for which the property is adaptable and needed or likely to be needed in the reasonably near future." The contract appraiser may also refer to definitions as found in "The Dictionary of Real Estate Appraisal."
      i. The UASFLA requires the contract appraiser to make a larger parcel determination in all appraisals. Apply the tests provided in UASFLA Part III to determine the larger parcels.
   c. ALL APPRAISALS: The highest and best use conclusion must be clearly supported by market evidence. Sale or exchange to the United States or other public entity is not an acceptable highest and best use. The use for which the Federal Government will put the property after the conservation easement has been acquired is, as a general rule, an improper highest and best use. A noneconomic highest and best use, such as "conservation," "natural lands," "preservation," or any use that requires the property to be withheld from economic production in perpetuity, is not a valid use upon which to base an estimate of market value.
   d. If the highest and best use is for development, the existing improvements must be analyzed to determine if they contribute to the development or if they would be removed. Stating that the improvements are not affected by the easement is not appropriate until it is determined if the improvements will be removed for the development or if the improvements will remain as part of the development.
   e. If the highest and best use is for assemblage, describe and explain the relationship of the appraised property to the property to which it would be joined.
   f. If speculation or investment is the highest and best use of the property, describe and explain its interim and most probable ultimate use.
   g. When there is a claim that the highest and best use of a property is something other than the property's existing use, the burden of proof is on the contract appraiser.
   h. Market value may not be predicated upon potential uses that are speculative and conjectural.
   i. If legal access does not exist to support the highest and best use, the appraiser must provide proof that there is sufficient land available to provide the required access. The contract appraiser's opinion of a reasonable probability of a zoning change must have a factual foundation. The appraisal report must include a description of the investigation undertaken to determine the probability of rezoning. The investigation must include thorough research of the uses and zoning of properties situated similarly to the subject property within the area covered by the zoning authority. The stated rezoning conclusion must be supported by facts surfaced in the research. A property may not be valued as if it were already zoned for a different use. The property must be valued only in light of the probability of obtaining a zoning change.

2. Value estimate by the cost approach
   a. Estimate the value of the land as though vacant and available for its highest and best use. Estimating land value by the use of confirmed sales of comparable or nearly comparable lands having like optimum uses is the preferred method.
   b. If the cost approach is not used, explain the reasons for not developing.

3. Value estimate by the sales comparison approach
   a. Nearby arm's length transactions that are comparable to the land under appraisal and reasonably current are the best evidence of market value. The Federal courts recognize the sales comparison approach as being normally the best evidence of market value.
NRCS ACEP-ALE Appraisal Specifications and Scope of Work

b. Analyze the last sale of the subject property if relevant. If not used, explain why. An unsupported claim that a sale of the subject property was a forced sale or is not indicative of its current value is unacceptable.

c. When supportable by market evidence, the use of quantified adjustments is preferred. Percentage and dollar adjustments may and often should be combined. Use qualitative adjustments when there is inadequate market data to support quantitative adjustments. Factors that cannot be quantified are dealt with in qualitative analysis. When quantitative and qualitative adjustments are both used in the adjustment process, all quantitative adjustments should be made first.

d. Provide market evidence, supporting narrative, or both for each adjustment used.
   i. Each quantitative adjustment requires supporting market evidence. Explain how the adjustment was determined and how it is applied to the comparable.
   ii. Each qualitative adjustment requires significant discussion to explain why it is necessary and explain the reason for the differences.

e. Include a sales adjustment chart summarizing the adjustments and showing the final adjusted sale prices and how the sales compare with the subject property.

f. The documentation of each comparable sale must include the following:
   i. Parties to the transaction
   ii. Date of transaction
   iii. Confirmation of the transaction
   iv. Confirm the transaction with the buyer, seller, broker, or other person having knowledge of the price, terms, and conditions of sale
   v. Buyer motivation
   vi. Location
   vii. Size
   viii. Legal description
   ix. Property rights conveyed
   x. Consideration
   xi. Financing terms
   xii. Verify if the sale was an arm’s length or distressed sale
   xiii. Improvements
   xiv. Physical description
      1. Describe topography, vegetative cover, water influence, improvements, irrigation water, soils, and other characteristics.
   xv. Non-realty items
   xvi. Economic characteristics
   xvii. Zoning
   xviii. Current use
   xix. Highest and Best Use
   xx. Topographic map
   xxi. Photographs
      1. Improvements
      2. Land

g. In order to make meaningful comparisons between the sales and the appraised property, NRCS requires inspection by the appraiser of all sales directly compared with the appraised property. Waiver of the comparable sale inspection requirement must be made in writing by the NRCS national appraiser in the form of a supplemental appraisal instruction. There is no waiver of the requirement for inspection of the appraised property.

h. The contract appraiser must adhere to UASFLA direction pertaining to comparable sales requiring extraordinary verification and weighting considerations. These include sales to governmental agencies, sales to environmental organizations, sales to parties
desiring to exchange the land to the government, distressed sales, and other atypical or
non-arm’s-length sales.
i. If the sales comparison approach is not used, explain the reasons for not developing
4. Value estimate by the income approach
   a. All data must be market supported
   b. If the income approach is not used, explain the reasons for not developing.
5. Correlation and final estimate
   a. The contract appraiser must avoid making a summation appraisal. Individual values of
      noncontiguous tracts cannot be simply added together.
   b. Appraisers are responsible for the final opinion of value even if it relies upon estimates
      developed by others (such as, timber cruisers or cost estimators). Value estimates
      developed by others will be the appraiser’s responsibility if needed.

d. Part 4 - Factual Data After Acquisition

1. Legal description
   a. If only a portion of the bundle of rights pertaining to a specific parcel of real estate is
      being acquired, this will be the same as in the before condition. If all of the rights held
      by the grantor for only a portion of the larger parcel are being acquired, this section
      will describe only the real estate being retained in the after condition.
   b. If the partial interest being acquired is only a portion of the property rights associated
      with the larger parcel, the rights being acquired are outstanding rights for the after
      appraisal.
2. Neighborhood factors
3. Property data
   a. Site
   b. Improvements
   c. Fixtures
   d. History
   e. Assessed value and annual tax load
   f. Zoning and other land use regulations

e. Part 5 - Data Analysis and Conclusions After Acquisition

1. Analysis of highest and best use
2. Land valuation
3. Value estimate by cost approach
4. Value estimate by sales comparison approach
   a. Every effort must be made to provide similar conservation easement encumbered sales.
   b. Discuss the restrictions on each of the encumbered sales and show how they are similar
      to the proposed conservation easement.
   c. The percentage diminution method is discouraged. If it is used, the appraiser must
      explain why it is necessary over direct comparison of the sales. If the percentages can
      be compared, the sales should be able to be compared.
5. Value estimate by income capitalization approach
6. Correlation and final value estimate

f. Part 6 - Acquisition Analysis

1. Recapitulation
   a. Show the difference between the value of the entire property and the value of the
      remainder by deducting the property’s after value from it’s before value.
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2. For Yellow Book appraisals only: Allocation and explanation of damages.
   a. Briefly explain any damages to the remainder property.

3. For Yellow Book appraisals only: Explanation of special benefits.
   a. Identify any special benefits accruing to the remainder.

   g. Part 7 - Exhibits and Addenda

1. Location map
   a. Maps must clearly identify the property and be of sufficient quality to enable the review appraiser to locate the property on the ground. Maps must be dated and include a legend, scale, and north arrow. The original copy of the report must contain original maps or vivid color copies.
      i. Area Map.—This is a small-scale map showing the general location of the subject market area.
      ii. Neighborhood Map.—This map shows the appraised property and its immediate neighborhood.
      iii. Tract Map or Plat.—This map is a large-scale (2-inch per mile) United States Geological Survey (USGS) or similar-quality map that shows the appraised property and pertinent physical features such as roads, streams, and improvements. If portions of the appraised property are assigned separate contributory values to the whole, these areas must be delineated on this map or a separate map.
      iv. Photograph Map.—This is a map or aerial photograph showing the location of the subject pictures.

2. Comparable data maps
   a. This map must show the location of the appraised property and the sales. Delineate the boundaries of the appraised properties and comparable sales when the map is of sufficient scale to be meaningful. If all pertinent comparable sales cannot be shown on the same map as the appraised property, a smaller-scale map (such as a state road map) may be included in addition to the larger scale map.

3. Detail of comparative data
   a. Include a completed form showing all information for each comparable transaction used in the appraisal. Include an aerial photograph, a plat (if available), a USGS topographic map (if appropriate), and color photos of each sale. The transaction number must match the number of the transaction listed in the report.

4. Plot plan (if applicable)
5. Floor plan (if applicable)
6. Title evidence report
   a. Include a copy of the preliminary title report or title report if available.
   b. If unavailable, explain the due diligence completed by the appraiser. Include the deeds for the parent property or properties.

7. Other pertinent exhibits
   a. Present additional data such as documents and charts pertinent to the valuation and referred to in the body of the appraisal. Exhibits may include:
      i. A copy of the conservation easement deed.
      ii. A copy of technical reports from specialists. This may include a timber cruise summary signed by a timber cruiser or a road plan signed by an engineer.
      iii. Property owner permission to appraise.

8. Qualifications of appraiser
   a. The contract appraisers must provide evidence of compliance with the certification requirements of the State or States where the properties are located.
   b. The contract appraisers must provide documentation of compliance with experience
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requirements.

c. The contract appraisers must provide documentation of meeting the education requirements

d. Engagement instructions received from the client.

G. Appraisal Reviews

1. All appraisal reports are subject to a technical appraisal review ordered by NRCS and conducted for compliance with appraisal instructions, USPAP, and UASFLA if applicable, prior to acceptance by NRCS.

2. NRCS will order the technical appraisal review.

3. The review appraiser is not assigned to the appraisal until it is received from the eligible entity.

4. The review appraiser may contact the appraiser for clarification and minor corrections.

5. The appraisal will be returned through NRCS to the eligible entity if significant changes are necessary requiring a supplemental appraisal report as discussed in section H below. The review appraiser will provide a technical appraisal review report approving the appraisal or not approving the appraisal and identifying the corrections or additions needed.

6. The review appraiser will be available to the appraiser to assist in obtaining an acceptable appraisal report.

7. The supplemental appraisal report will be subject to a subsequent technical review.

H. Format for Supplemental Appraisal Reports

1. Supplements or amendments to appraisal reports, such as for updating value estimates or effective date of value, changes in acreage, changes in access, title conditions or deed terms, additional support or explanation, or to correct a previous appraisal report, must be referenced for incorporation with the original report in accordance with USPAP. The following format is recommended. All items must be addressed.

a. Title Page.—Include the same information as on the original appraisal report. Label the report as a “Supplemental Appraisal Report to the Appraisal Report for_________”

b. Summary of Facts.—Include:

1. Owner’s name or other identification of the property

2. Client’s name

3. Size

4. Highest and best use

5. New opinion of value

6. Valuation date

   a. Effective date of the original report or

   b. The date of the new inspection for updating the effective date.

c. Summary of Original Appraisal.—Cite the date and value opinion from the original appraisal. If previous updates have been made since the original appraisal, cite value opinions and value dates from all updates as well as the original appraisal.

d. Changes.—Explain the reason for the appraisal supplement such as, to update an opinion of value due to survey acres, new effective date, amend a previous appraisal report, add additional support or explanation, or other.

e. New Opinion of Value.—Discuss the changes that have occurred since the original appraisal. Discuss the method used to update the opinion of value and cite the evidence or analysis of trends that support the updated value opinion. Conclude with a statement of the new opinion of value and the valuation date which is the effective date of the original report or the new effective
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date, followed by the contract appraiser's signature.
f. Certification as required in section F(2)(a)(4) of this exhibit.
g. Addenda.—Include sales data detail for new sales cited, summaries of data and trend analyses, maps of sales analyzed, and any other information relied upon but not included in the text.
h. Binding.—If the supplemental appraisal report comprises more than four pages, it must be bound in durable report cover with appropriate identification.
i. Electronic Copy.—An electronic copy of the supplemental report will be provided along with the hardcopy.
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES

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TITLE OF DOCUMENT: Whatcom Community Foundation Grant Agreement

ATTACHMENTS: Memo, Information Sheet, Grant Agreement

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 Whatcom Community Foundation (WCF) is offering Whatcom County $200,000 to go towards 50% cost share for the purchase of Purchase of Development Rights (PDR) easements through their Sustainable Whatcom Fund grant. The easements will be placed on 2014-2015 applicant properties in the order of their ranking. The WCF grant works on a reimbursement system. The County will pay the full amount of the easement from Conservation Futures Fund, and then the fund will be reimbursed a few weeks after closing for 50% of the purchase price. Council reviewed PDR applicant properties at their 09/15/15 meeting and approved Resolution 2015-032 which authorized the PDR program administrator to proceed with title and appraisal services for the approved properties. Approving this grant agreement will authorize the Executive to sign the agreement.

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.

Contract for Services Agreement
[Insert more specific appellation]

V2.0

130
MEMORANDUM

TO: Jack Louws, County Executive
FROM: Mark Personius, Assistant Director
        Karin Beringer, Planner I
RE: Whatcom Community Foundation Grant
DATE: October 1, 2015

Enclosed are two (2) originals of the Grant Agreement between Whatcom Community Foundation and Whatcom County for your review and signature.

- Background and Purpose
The Whatcom Community Foundation (WCF) is offering Whatcom County $200,000 to go towards 50% cost share for the purchase of Purchase of Development Rights (PDR) easements through their Sustainable Whatcom Fund grant. The easements will be placed on 2014-2015 applicant properties in the order of their ranking. The WCF grant works on a reimbursement system. The County will pay the full amount of the easement from Conservation Futures Fund, and then the fund will be reimbursed a few weeks after closing for 50% of the purchase price. Council reviewed PDR applicant properties at their 09/15/15 meeting and approved Resolution 2015-032 which authorized the PDR program administrator to proceed with title and appraisal services for the approved properties. Approving this grant agreement will authorize the Executive to sign the agreement.

- Funding Amount and Source
This is a grant for $200,000 from the Whatcom Community Foundation's Sustainable Whatcom Fund to be used as cost share in the purchase of Purchase of Development Rights (PDR) agricultural conservation easements.

Please contact Karin Beringer at extension 5956 if you have any questions or concerns regarding the terms of this agreement.
<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Planning &amp; Development Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>Karin Beringer</td>
</tr>
<tr>
<td>Contractor's / Agency Name:</td>
<td>Whatcom Community Foundation</td>
</tr>
</tbody>
</table>

Is this a New Contract? Yes ☒ No ☐ If not, is this an Amendment or Renewal to an Existing Contract? Yes ☐ No ☒ If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #: _______________________ Does contract require Council Approval? Yes ☒ No ☐ 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): 5914 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): ________________ Contract Cost Center: 17550 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):

$ 200,000.00

This Amendment Amount:

$ __________________________

Total Amended Amount:

$ __________________________

Contracts that require Council Approval (incl. agenda bill & memo)
- Professional Services Agreement above $20,000.
- Bid is more than $50,000.
- Amendments that have either an increase greater than 10% or provide a $10,000 increase in amount (whichever is greater)

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

Summary of Scope: The Whatcom Community Foundation (WCF) is offering Whatcom County $200,000 to go towards 50% cost share for the purchase of Purchase of Development Rights (PDR) easements through their Sustainable Whatcom Fund grant. The easements will be placed on 2014-2015 applicant properties in the order of their ranking. The WCF grant works on a reimbursement system. The County will pay the full amount of the easement from Conservation Futures Fund, and then the fund will be reimbursed a few weeks after closing for 50% of the purchase price. Council reviewed PDR applicant properties at their 09/15/15 meeting and approved Resolution 2015-032 which authorized the PDR program administrator to proceed with title and appraisal services for the approved properties. Approving this grant agreement will authorize the Executive to sign the agreement.

Term of Contract: Expiration Date: 12-31-16 - ?

Contract Routing: 1. Prepared by: BB Date: 10/1/15
2. Attorney signoff: Date: 10/1/15
3. AS Finance reviewed: Date: 10/1/15
4. IT reviewed (if IT related): Date: 10/1/15
5. Contractor signed: Date: 10/2/15
6. Submitted to Exec.: Date: 10/2/15
7. Council approved (if necessary): Date: 10/2/15

Contract for Services Agreement [Insert more specific appellation]
July 7, 2015

Mr. Chris Elder, Program Coordinator
Whatcom County PDR Program
5280 Northwest Drive
Bellingham, WA 98225

RE: Grant #5914

Dear Chris:

We are pleased to advise you that our Board of Directors has authorized a grant of $200,000 to Whatcom County’s PDR Program via the Conservation Futures Fund. This contribution is paid from Whatcom Community Foundation’s Sustainable Whatcom Fund and is intended to support matching funds for the Purchase of Development Rights Program (PDR) via the Conservation Futures Fund, to be used exclusively for the purpose of purchasing agricultural conservation easements.

Sustainable Whatcom supports the vibrancy and sustainability of Whatcom County lowlands by:

- Working towards agricultural sustainability through projects which address social, ecological and economic realities in a holistic manner
- Supporting existing and catalyzing the creation of new efforts
- Promoting the efficient and fair management of the community’s land resources with ecological integrity.
- Responding to timely opportunities that support the vibrancy of the people, economy and ecology of Whatcom County

Enclosed are two copies of the Award Letter and Grant Agreement. If you accept this grant, please sign and date one of these sets and return it to us. Please keep the other set for your files. This grant will paid by January of 2016 at the latest. Please include the grant number on any correspondence regarding this grant.

We look forward to our relationship with you and to following the progress of your activities.

Please contact me at any time in the course of this grant if I can help.

Sincerely,

Pamela Jons
Director of Advancement & Programs
Whatcom Community Foundation
Grant Agreement Number: 5914
Grantee: Whatcom County
Total Award Amount: $200,000
Title of Project: Matching funds for the Purchase of Developments Rights Program in the Conservation Futures Fund
Grant Period: 1 year from the date of the grant payment

Grant Requirements

1. This grant is made based upon a specific proposal you submitted which contained a project budget. It is expected that the entire amount of this grant will be applied to the budget and not used for any other purposes. Should it become advantageous to the project to slightly modify the project, timing, and/or budget, permission to do so must be requested of the Foundation in writing.

2. The Foundation expects to be kept fully informed of progress on this project. To this end, each grantee is required to submit a final report and may be asked to attend an interim interactive grant reporting discussion. Grantees need to submit a final report to the Foundation one year from the date of the grant payment that includes:
   a. Financial accounting of the grant funds;
   b. Brief narrative report, including specific outcomes, of the grant-supported activities; and,
   c. A digital photo and story describing how your work benefited the community along with a signed release form (enclosed) from any individuals identifiable in the photo. The release gives the Foundation the right to use the image in marketing and media material.

3. We would appreciate that you mention support of The Sustainable Whatcom Fund of Whatcom Community Foundation in any publicity or communications about activities related to this grant (please send us copies of any materials). Such publicity can increase the visibility of your project, and helps the community better understand the impact of their investments in the Foundation.

4. Please include the grant number on any correspondence regarding this grant.

5. If you apply for a competitive grant in 2015, we will require an interim report/update.

6. Grantee agrees to repay the Whatcom Community Foundation any portion of grant funds not used for the purposes of the grant as described in the award letter or amended in writing.

By signing this document, the grantee agrees to any and all conditions of this grant award to comply with the expectations of the Whatcom Community Foundation as outlined.

X
Signature of authorized signer

Date

Chris Elder                    Whatcom County PDR Outreach Coordinator
Printed Name                  Title

Whatcom County
Grantee Organization
Approved as to form:

[Signature]

Prosecuting Attorney Date

Whatcom County

Recommended for approval

By: ____________________________

Title: Whatcom County Executive

Date: _________________________

STATE OF WASHINGTON )
 COUNTYS OF ________________ ) ss.

On this _______ day of _____________, 2015 before me personally appeared ____________________________ to me know to be the County Executive of Whatcom County and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

______________________________

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

______________________________

My commission expires _______________
**TITLE OF DOCUMENT:** Purchase of ER&R replacement brush chipper

**ATTACHMENTS:** Memo from Finance and Public Works

<table>
<thead>
<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( x ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( x ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

Public Work Equipment Services is requesting approval to use the Washington State Contract #10212 (expires 04/10/2017) to purchase a replacement heavy-duty brush chipper. The total cost is $51,662.31. This is a planned purchase and adequate funds are available in the current budget.
DATE: October 1, 2015
TO: Jack Louws, County Executive
FROM: Brad Bennett, AS Finance Manager
SUBJECT: Approval to Purchase Brush Chipper

- Background & Purpose

Public Works Equipment Services is requesting approval to purchase a replacement heavy-duty brush chipper, using Washington State Contract #10212 (expires 04/10/17). The vendor is D & L Waste Equipment, dba PCI Waste and Recycling Equipment. The replacement unit is a 2015 Brush Bandit Model 250XP. The total price for this purchase is $51,662.31. Public Works will use this unit on county road projects as part of the road vegetation maintenance program.

- Funding
This is a planned expenditure and funds for this purchase are available in the current ER&R budget. I concur with this request.

[Signature]
AS Finance Manager

Approved as recommended:

________________________________________
County Executive

Date ___________________________
MEMORANDUM

To: Brad Bennett, AS Finance Manager
Through: Jon Hutchings, Public Works Director
From: Eric L. Schlehuber, PW Equipment Services Manager
Date: September 24, 2015
Re: State Bid Contract 10212 (Lawn and Grounds Maintenance Equipment)

- Requested Action
After researching cost for brush chippers, I am requesting Executive approval to purchase one 2015 Bandit Model 250XP heavy-duty brush chipper from the Washington State Bid Procurement List to replace the following:

<table>
<thead>
<tr>
<th>DEPARTMENT</th>
<th>REPLACE UNIT</th>
<th>MAKE / MODEL</th>
<th>ESTIMATED HOURS</th>
</tr>
</thead>
<tbody>
<tr>
<td>M&amp;O</td>
<td>438</td>
<td>1995 Bandit Model B-250</td>
<td>14,330</td>
</tr>
</tbody>
</table>

- Background and Purpose
This unit was approved in the 2015-2016 Equipment Rental and Revolving Capital Equipment Budget. The Public Works Maintenance and Operations Division will use this unit in the performance of county business as part of the road vegetation maintenance program.

<table>
<thead>
<tr>
<th>VENDOR</th>
<th>MAKE / MODEL</th>
<th>PRICE EACH</th>
<th>SALES TAX (8.7%)</th>
<th>TOTAL FOR 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>PCI Waste and Recycling Equipment</td>
<td>2015 Brush Bandit Model 250XP</td>
<td>$47,527.42</td>
<td>$4,134.89</td>
<td>$51,662.31</td>
</tr>
</tbody>
</table>

- Funding Amount and Source
This amount has been budgeted in the 2015-2016 ER&R Budget. I am requesting Executive and Council approval to purchase this unit from PCI Waste and Recycling Equipment in Portland, Oregon for the base price of $47,527.42 per unit, plus 8.7% sales tax of $4,134.89, for a total amount of $51,662.31.

- Recommended Action
Please approve this purchase from the state contract and forward to the Executive and the Whatcom County Council for approval at the October 13, 2015 Whatcom County Council Meeting.

Please contact Eric L. Schlehuber at extension 6405 if you have any questions or concerns.

Attachment
**WHATCOM COUNTY COUNCIL AGENDA BILL**

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division Head:</td>
<td>Joe Rutan, P.E.</td>
<td>AC</td>
<td>9-30-15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dept. Head:</td>
<td>Jon Hutchings</td>
<td>TH</td>
<td>9-8/15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prosecutor:</td>
<td>Daniel Gibson</td>
<td>DF</td>
<td>10/2/15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchasing/Budget:</td>
<td>Brad Bennett</td>
<td>BF</td>
<td>10/1/15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Executive:</td>
<td>Jack Louws</td>
<td>BF</td>
<td>10/2/15</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TITLE OF DOCUMENT:**
Local Agency Agreement for the West Badger Rd/Bertrand Creek Bridge No. 50 Replacement

**ATTACHMENTS:**
1. Memo
2. Contract Info Sheet
3. Local Agency Agreement (2 originals)
4. Local Agency General Aid Project Prospectus (2 originals)

**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.)

Whatcom County has been awarded federal 2014 Bridge Replacement Advisory Committee (BRAC) funds to replace the Bertrand Creek Bridge No. 50 on West Badger Road. A Local Agency Agreement is required to receive the funds.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council)
Memorandum

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

Through: Jon Hutchings, Director

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

Date: September 14, 2015

Re: West Badger Rd/Bertrand Creek Bridge No. 50 Replacement (CRP 915024) Federal Aid Project Prospectus and Local Agency Agreement

Enclosed for your review and signature are two (2) originals each of a Federal Aid Project Prospectus and Local Agency Agreement between the Washington State Department of Transportation (WSDOT) and Whatcom County for the West Badger Rd/Bertrand Creek Bridge No. 50 Replacement Project (CRP #915024).

Requested Action

Public Works respectfully requests that the County Council authorize the County Executive to enter into an agreement with WSDOT to receive federal funding for West Badger Rd/Bertrand Creek Bridge No. 50 Replacement Project.

Please keep one original of the Project Prospectus for your files and return the other original to my office, as it requires no signatures from WSDOT. Please return both originals of the Local Agency Agreement to my office for further processing. We will return a fully executed original to you once they are signed by WSDOT.

Background and Purpose

Whatcom County was awarded federal 2014 Bridge Replacement Advisory Committee (BRAC) funds to replace the Bertrand Creek Bridge No. 50 on West Badger Road. The existing bridge is structurally deficient and has advanced rot in several of the timber caps. This bridge is a major collector and a vital haul route.

A Project Prospectus and Local Agency Agreement with WSDOT are required to receive the federal funds.

Funding Amount and Source

The total project cost is estimated to be $1,807,509. Whatcom County has been awarded $1,430,008 in federal funds for this project, with the remainder, $377,501, coming from the local road fund. The attached Local Agency Agreement will obligate $218,838 of the award amount for design and permitting. A Local Agency Supplement will be submitted to obligate the remaining federal funds for construction once the design and permitting are complete.

Please contact Christina Schoenfelder at extension 6274 with any questions regarding this agreement.
**WHATCOM COUNTY CONTRACT INFORMATION SHEET**

<table>
<thead>
<tr>
<th>Originating Department:</th>
<th>Public Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract or Grant Administrator:</td>
<td>James E. Lee, Engineering Manager</td>
</tr>
<tr>
<td>Contractor’s / Agency Name:</td>
<td>Washington Department of Transportation</td>
</tr>
</tbody>
</table>

**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 #:**

**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 [x]  
- No [ ]

**If yes, grantor agency contract number(s):**

**Is this contract grant funded?**
- Yes [x]  
- No [ ]

**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?**
- Yes [x]  
- No [ ]

**If no, include Attachment D Contractor Declaration form.**

**If YES, indicate exclusion(s) below:**
- [ ] Professional services agreement for certified/licensed professional.
- [ ] Contract work is for less than $100,000.
- [ ] Contract work is for less than 120 days.
- [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:
  - $ 218,838.00

**This Amendment Amount:**

**Total Amended Amount:**

**Summary of Scope:** Whatcom County has been awarded federal 2014 Bridge Replacement Advisory Committee (BRAC) funds to replace the Bertrand Creek Bridge No. 50 on West Badger Road. A Local Agency Agreement is required to receive the funds.

**Term of Contract:** n/a  
**Expiration Date:**  
**Project Completion**

<table>
<thead>
<tr>
<th>Contract Routing</th>
<th>Expiration Date</th>
<th>Project Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Prepared by: Christina Schoenfelder</td>
<td>Date: 8/28/2015</td>
<td></td>
</tr>
<tr>
<td>2. Attorney signoff: Daniel L. Gibson</td>
<td>Date: 9/10/15</td>
<td></td>
</tr>
<tr>
<td>3. AS Finance reviewed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. IT reviewed (if IT related):</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Contractor signed:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Submitted to Exec.:</td>
<td>Date: 10/2/15</td>
<td></td>
</tr>
<tr>
<td>7. Council approved (if necessary):</td>
<td>Date:</td>
<td></td>
</tr>
<tr>
<td>8. Executive signed:</td>
<td>Date:</td>
<td></td>
</tr>
<tr>
<td>9. Original to Council:</td>
<td>Date:</td>
<td></td>
</tr>
</tbody>
</table>

*Last Edited 060414*
Local Agency Agreement

Agency: Whatcom County
Address: 322 N. Commercial St. Suite 301
Bellingham, WA 98225-4042

The Local Agency having complied, or hereby agreeing to comply, with the terms and conditions set forth in (1) Title 23, U.S. Code Highways, (2) the regulations issued pursuant thereto, (3) 2 CFR Part 200, (4) the policies and procedures promulgated by the Washington State Department of Transportation, and (5) the federal aid project agreement entered into between the State and Federal Government, relative to the above project, the Washington State Department of Transportation will authorize the Local Agency to proceed on the project by a separate notification. Federal funds which are to be obligated for the project may not exceed the amount shown herein on line r, column 3, without written authority by the State, subject to the approval of the Federal Highway Administration. All project costs not reimbursed by the Federal Government shall be the responsibility of the Local Agency.

Project Description
Name: West Badger Rd/Bertrand Creek Bridge No. 50 Replacement
Termini: MP 4.86 to 4.88

Description of Work
Remove the existing bridge structure and replace with a prestressed concrete girder, single span bridge with reinforced concrete substructure.

Project Agreement End Date: March, 2019
Proposed Advertisement Date: __________

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>(1) Estimated Total Project Funds</th>
<th>(2) Estimated Agency Funds</th>
<th>(3) Estimated Federal Funds</th>
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<tbody>
<tr>
<td>PE</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>80 %</td>
<td>a. Agency 33,838.00</td>
<td>6,767.60</td>
<td>27,070.40</td>
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<tr>
<td></td>
<td>b. Other Consultant 180,000.00</td>
<td>36,000.00</td>
<td>144,000.00</td>
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<tr>
<td></td>
<td>c. Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Aid Participation Ratio for PE</td>
<td>d. State 5,000.00</td>
<td>1,000.00</td>
<td>4,000.00</td>
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<tr>
<td></td>
<td>e. Total PE Cost Estimate (a+b+c+d) 218,838.00</td>
<td>43,767.60</td>
<td>175,070.40</td>
</tr>
<tr>
<td>Right of Way</td>
<td>f. Agency</td>
<td></td>
<td></td>
</tr>
<tr>
<td>%</td>
<td>g. Other</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Aid Participation Ratio for RW</td>
<td>h. Other</td>
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<td></td>
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<td></td>
<td>i. State</td>
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<td></td>
<td>j. Total R/W Cost Estimate (f+g+h+i)</td>
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<td>Construction</td>
<td>k. Contract</td>
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<tr>
<td>%</td>
<td>l. Other</td>
<td></td>
<td></td>
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<tr>
<td>Federal Aid Participation Ratio for CN</td>
<td>m. Other</td>
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<td></td>
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<td></td>
<td>n. Other</td>
<td></td>
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<td></td>
<td>o. Agency</td>
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<td></td>
<td>p. State</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>q. Total CN Cost Estimate (k+l+m+n+o+p)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>r. Total Project Cost Estimate (e+j+r) 218,838.00</td>
<td>43,767.60</td>
<td>175,070.40</td>
</tr>
</tbody>
</table>

Agency Official
By ___________________________ By ___________________________
Title: Jack Louws
Whatcom County Executive

Director, Local Programs

Approved As To Form: ___________________________
Date Executed: __________

Daniel L. Gibson
Chief Civil Deputy Prosecutor

DOT Form 140-039
Revised 05/2015
Page 1
The Agency agrees that on federal aid highway construction projects, the current federal aid regulations which apply to liquidated damages relative to the basis of federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

VI. Payment and Partial Reimbursement

The total cost of the project, including all review and engineering costs and other expenses of the State, is to be paid by the Agency and by the Federal Government. Federal funding shall be in accordance with the Federal Transportation Act, as amended, 2 CFR Part 200. The State shall not be ultimately responsible for any of the costs of the project. The Agency shall be ultimately responsible for all costs associated with the project which are not reimbursable by the Federal Government. Nothing in this agreement shall be construed as a promise by the State as to the amount or nature of federal participation in this project.

The Agency shall bill the State for federal aid project costs incurred in conformity with applicable federal and state laws. The agency shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for federal participation unless a current indirect cost plan has been prepared in accordance with the regulations outlined in 2 CFR Part 200 - Uniform Admin Requirements, Cost Principles and Audit Requirements for Federal Awards, and retained for audit.

The State will pay for State incurred costs on the project. Following payment, the State shall bill the Federal Government for reimbursement of those costs eligible for federal participation to the extent that such costs are attributable and properly allocable to this project. The State shall bill the Agency for that portion of State costs which were not reimbursed by the Federal Government (see Section IX).

1. Project Construction Costs

Project construction financing will be accomplished by one of the three methods as indicated in this agreement.

Method A – The Agency will place with the State, within (20) days after the execution of the construction contract, an advance in the amount of the Agency’s share of the total construction cost based on the contract award. The State will notify the Agency of the exact amount to be deposited with the State. The State will pay all costs incurred under the contract upon presentation of progress billings from the contractor. Following such payments, the State will submit a bill to the Federal Government for the federal aid participation share of the cost. When the project is substantially completed and final actual costs of the project can be determined, the State will present the Agency with a final billing showing the amount due the State or the amount due the Agency. This billing will be cleared by either a payment from the Agency to the State or by a refund from the State to the Agency.

Method B – The Agency’s share of the total construction cost as shown on the face of this agreement shall be withheld from its monthly fuel tax allocations. The face of this agreement establishes the months in which the withholding shall take place and the exact amount to be withheld each month. The extent of withholding will be confirmed by letter from the State at the time of contract award. Upon receipt of progress billings from the contractor, the State will submit such billings to the Federal Government for payment of its participating portion of such billings.

Method C – The Agency may submit vouchers to the State in the format prescribed by the State, in duplicate, not more than once per month for those costs eligible for Federal participation to the extent that such costs are directly attributable and properly allocable to this project. Expenditures by the Local Agency for maintenance, general administration, supervision, and other overhead shall not be eligible for Federal participation unless claimed under a previously approved indirect cost plan.

The State shall reimburse the Agency for the Federal share of eligible project costs up to the amount shown on the face of this agreement. At the time of audit, the Agency will provide documentation of all costs incurred on the project.

The State shall bill the Agency for all costs incurred by the State relative to the project. The State shall also bill the Agency for the federal funds paid by the State to the Agency for project costs which are subsequently determined to be ineligible for federal participation (see Section IX).

VII. Audit of Federal Consultant Contracts

The Agency, if services of a consultant are required, shall be responsible for audit of the consultant’s records to determine eligible federal aid costs on the project. The report of said audit shall be in the Agency’s files and made available to the State and the Federal Government.

An audit shall be conducted by the WSDOT Internal Audit Office in accordance with generally accepted governmental auditing standards as issued by the United States General Accounting Office by the Comptroller General of the United States; WSDOT Manual M 27-50, Consultant Authorization, Selection, and Agreement Administration; memoranda of understanding between WSDOT and FHWA; and 2 CFR Part 200.501 - Audit Requirements.

If upon audit it is found that overpayment or participation of federal money in ineligible items of cost has occurred, the Agency shall reimburse the State for the amount of such overpayment or excess participation (see Section IX).

VIII. Single Audit Act

The Agency, as a subrecipient of federal funds, shall adhere to the federal regulations outlined in 2 CFR Part 200.501 as well as all applicable federal and state statutes and regulations. A subrecipient who expends $750,000 or more in federal awards from all sources during a given fiscal year shall have a single or program-specific audit performed for that year in accordance with the provisions of 2 CFR Part 200.501. Upon conclusion of the audit, the Agency shall be responsible for ensuring that a copy of the report is transmitted promptly to the State.

IX. Payment of Billing

The Agency agrees that if payment or arrangement for payment of any of the State’s billing relative to the project (e.g., State force work, project cancellation, overpayment, cost ineligible for federal participation, etc.) is not made to the State within 45 days after the Agency has billed, the State shall effect reimbursement of the total sum due from the regular monthly fuel tax allocations to the Agency from the Motor Vehicle Fund. No additional Federal project funding will be approved until full payment is received unless otherwise directed by the Director, Local Programs.

Project Agreement End Date - This date is based on your project’s Period of Performance (2 CFR Part 200.309).

Any costs incurred after the Project Agreement End Date are NOT eligible for federal reimbursement. All eligible costs incurred prior to the Project Agreement End Date must be submitted for reimbursement within 90 days after the Project Agreement End Date or they become ineligible for federal reimbursement.
XIV. Termination for Public Convenience

The Secretary of the Washington State Department of Transportation may terminate the contract in whole, or from time to time in part, whenever:

(1) The requisite federal funding becomes unavailable through failure of appropriation or otherwise.

(2) The contractor is prevented from proceeding with the work as a direct result of an Executive Order of the President with respect to the prosecution of war or in the interest of national defense, or an Executive Order of the President or Governor of the State with respect to the preservation of energy resources.

(3) The contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining order of a court of competent jurisdiction where the issuance of such order is primarily caused by the acts or omissions of persons or agencies other than the contractor.

(4) The Secretary is notified by the Federal Highway Administration that the project is inactive.

(5) The Secretary determines that such termination is in the best interests of the State.

XV. Venue for Claims and/or Causes of Action

For the convenience of the parties to this contract, it is agreed that any claims and/or causes of action which the Local Agency has against the State of Washington, growing out of this contract or the project with which it is concerned, shall be brought only in the Superior Court for Thurston County.

XVI. Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The approving authority certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the Standard Form - L.L.I. Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, and contracts and subcontracts under grants, subgrants, loans, and cooperative agreements) which exceed $100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification as a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

XVII. Assurances

Local agencies receiving Federal funding from the USDOT or its operating administrations (i.e., Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration) are required to submit a written policy statement, signed by the Agency Executive and addressed to the State, documenting that all programs, activities, and services will be conducted in compliance with Section 504 and the Americans with Disabilities Act (ADA).

Additional Provisions
### Local Agency Federal Aid Project Prospectus

#### Federal Aid Project Number
- **Prefix:** STP(BR)
- **Route:** O371
- **Local Agency Project Number:** CRP No. 915024
- **Agency:** Whatcom County
- **CA Agency:** Yes
- **Federal Program Title:** 20.205
- **Date:** September 21, 2015
- **DUNS Number:** 618953285
- **Federal Employer Tax ID Number:** 916001383

#### Project Title
- **Start Latitude:** N 48°57'53.23"
- **Start Longitude:** W 122°30'30.00"
- **End Latitude:** N 48°57'53.23"
- **End Longitude:** W 122°30'28.85"
- **Project Terminis From - To:** MP 4.86 to 4.88
- **Nearest City Name:** Lynden
- **Project Zip Code (+4):** 98264

#### Route Information
- **Begin Mile Post:** 4.86
- **End Mile Post:** 4.88
- **Length of Project:** 0.020 mi.
- **Award Type:** Local
- **Route ID:** N/A
- **Begin Mile Point:** N/A
- **End Mile Point:** N/A
- **City Number:** 0710
- **County Number:** 37
- **County Name:** Whatcom
- **WSDOT Region:** Northwest
- **Legislative District(s):** 42
- **Congressional District(s):** 2
- **Urban Area Number:** 34

#### Phase Table
<table>
<thead>
<tr>
<th>Phase</th>
<th>Total Estimated Cost (Nearest Hundred Dollar)</th>
<th>Local Agency Funding (Nearest Hundred Dollar)</th>
<th>Federal Funds (Nearest Hundred Dollar)</th>
<th>Phase Start Date</th>
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<tbody>
<tr>
<td>P.E.</td>
<td>218,838</td>
<td>43,767</td>
<td>175,071</td>
<td>May 2016</td>
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<tr>
<td>R/W</td>
<td>20,000</td>
<td>0</td>
<td>0</td>
<td>August 2016</td>
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<tr>
<td>Const.</td>
<td>1,568,671</td>
<td>313,734</td>
<td>1,254,937</td>
<td>March 2019</td>
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<tr>
<td>Total</td>
<td>1,807,509</td>
<td>377,501</td>
<td>1,430,008</td>
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</table>

#### Description of Existing Facility
Bridge #50 is a 2-lane, 69-foot long, 3 span reinforced concrete channel beam bridge with concrete abutments, 28 timber piles and 4 timber pile caps. The existing structure has advanced rot in several of the caps. This bridge is deficient, especially for the heavy truck traffic loading it receives. The Pier #3 cap has been crushed and an emergency temporary repair has been completed. This route is a major collector and is a vital haul route. The existing multi-bent channel beam configuration does not meet today's design standards and does not belong on a Major Rural Collector.

#### Description of Proposed Work
The proposed work will remove the existing bridge structure and replace with a prestressed concrete girder, single span bridge with reinforced concrete substructure. The new bridge width will be increased to 40' to meet County Standards and will be constructed to the same basic lines and grades as existing.

#### Local Agency Contact Person
- **Name:** Christina Schoenfelder, P.E.
- **Title:** Project Engineer
- **Mailing Address:** 322 N. Commercial Street, Suite 301
- **City:** Bellingham
- **State:** WA
- **Phone:** (360)715-7450
- **Zip Code:** 98225-4042

#### Approval
- **By:**
- **Approving Authority:**
- **Title:** County Engineer/Assistant Director
- **Date:** 9/30/15

**Previous Editions Obsolete**

**Page 1**
## Type of Proposed Work

<table>
<thead>
<tr>
<th>Project Type (Check all that Apply)</th>
<th>Roadway Width</th>
<th>Number of Lanes</th>
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<tbody>
<tr>
<td>New Construction</td>
<td>40'</td>
<td>2</td>
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<tr>
<td>Path / Trail</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bridge</td>
<td></td>
<td></td>
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<tr>
<td>3-R</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pedestrian / Facilities</td>
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<tr>
<td>2-R</td>
<td></td>
<td></td>
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<tr>
<td>Railroad</td>
<td></td>
<td></td>
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<tr>
<td>Parking</td>
<td></td>
<td></td>
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<tr>
<td>Other</td>
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## Geometric Design Data

### Federal Functional Classification

<table>
<thead>
<tr>
<th>Description</th>
<th>Through Route</th>
<th>Crossroad</th>
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<tr>
<td></td>
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<table>
<thead>
<tr>
<th>Terrain</th>
<th>Flat</th>
<th>Roll</th>
<th>Mountain</th>
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<tbody>
<tr>
<td>Posted Speed</td>
<td>45</td>
<td></td>
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</tr>
<tr>
<td>Design Speed</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Existing ADT</td>
<td>2988</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Design Year ADT</td>
<td>3500</td>
<td></td>
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</tr>
<tr>
<td>Design Year</td>
<td>2034</td>
<td></td>
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<tr>
<td>Design Hourly Volume (DHV)</td>
<td>525</td>
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<td></td>
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</table>

## Performance of Work

### Preliminary Engineering Will Be Performed By
- Consultant Contract
  - Others: 80 %
  - Agency: 20 %

### Construction Will Be Performed By
- Construction Contract
  - Others: 100 %
  - Agency: 0 %

## Environmental Classification

- **Class I - Environmental Impact Statement (EIS)**
- **Class II - Categorically Excluded (CE)**
  - Projects Requiring Documentation (Documented CE)

## Environmental Considerations

Whatcom County Planning and Development Services: SEPA, Land Disturbance, Critical Areas Review, Shorelines.

Army Corps: NWP/Section 404

USFWS/NOAA Fisheries: ESA Section 7 compliance

Department of Fish and Wildlife: HPA

Department of Ecology: Water Quality Certification/Section 401

FHWA: ECS
### Right of Way

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒ No Right of Way Needed</td>
<td>* All construction required by the contract can be accomplished within the existing right of way.</td>
</tr>
<tr>
<td>☒ Right of Way Needed</td>
<td></td>
</tr>
<tr>
<td>☐ No Relocation</td>
<td></td>
</tr>
<tr>
<td>☐ Relocation Required</td>
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</tr>
</tbody>
</table>

### Utilities

<table>
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<tr>
<th>Option</th>
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</thead>
<tbody>
<tr>
<td>☐ No utility work required</td>
<td></td>
</tr>
<tr>
<td>☒ All utility work will be completed prior to the start of the construction contract</td>
<td></td>
</tr>
<tr>
<td>☒ All utility work will be completed in coordination with the construction contract</td>
<td></td>
</tr>
</tbody>
</table>

### Railroad

<table>
<thead>
<tr>
<th>Option</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>☒ No railroad work required</td>
<td></td>
</tr>
<tr>
<td>☐ All railroad work will be completed prior to the start of the construction contract</td>
<td></td>
</tr>
<tr>
<td>☐ All railroad work will be completed in coordination with the construction contract</td>
<td></td>
</tr>
</tbody>
</table>

### Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project

**No utility relocation anticipated**

### FAA Involvement

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is any airport located within 3.2 kilometers (2 miles) of the proposed project?</td>
<td>☒ No</td>
</tr>
</tbody>
</table>

### Remarks

---

This project has been reviewed by the legislative body of the administration agency or agencies, or its designee, and is not inconsistent with the agency's comprehensive plan for community development.

**Agency**  
Whatcom County

**Date**

---

**Approved As To Form:**  
Daniel L. Gibson, 10/07/15  
Chief Civil Deputy Prosecutor

**Whatcom County Executive**

---

**DOT Form 140-101 EF**  
Revised 04/2015  
* Previous Editions Obsolete *
**TITLE OF DOCUMENT:**
Update on Puget Sound Energy's battery storage project in Glacier

**ATTACHMENTS:**
Update on Puget Sound Energy's battery storage project in Glacier

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

<table>
<thead>
<tr>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes ( ) NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Requested Date:</td>
<td></td>
</tr>
</tbody>
</table>

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

**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.*
WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES  Initial  Date  Date Received in Council Office  Agenda Date  Assigned to:

Originator:  JPR  9/30/2015  10/13/2015  Public Works Committee & Intro.
Division Head:  JPR  9/30/2015  10/27/2015  Public Hearing/Adoption
Dept. Head:  10/3/15
Prosecutor:  10/02/15
Purchasing/Budget:  10/21/15
Executive:  

TITLE OF DOCUMENT:
2016 Annual Road Construction Program (ACP) Resolution.

ATTACHMENTS:
1. Memo to County Executive and Council
2. Resolution
3. 2016 Annual Construction Program (ACP)
4. Summary Sheets for Projects Funded in 2016

SEPA review required?  ( ) Yes  ( ) NO  Should Clerk schedule a hearing?  (X) Yes  ( ) NO
SEPA review completed?  ( ) Yes  ( ) NO  Requested Date: 10/27/2015

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

Resolution adopting the Whatcom County 2016 Annual Construction Program (ACP). The ACP is an integral part of the County budget process and reflects the first year of the adopted 2016-2021 Six Year Road Capital Construction Program.

COMMITTEE ACTION:

COUNCIL ACTION:

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

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

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

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: September 30, 2015

Re: 2016 Annual Construction Program (ACP)

---

Requested Action:
Public Works Committee work session and Introduction on October 13, 2015, followed by a Public Hearing and adoption on October 27, 2015.

Background and Purpose:
RCW 36.81.130 requires the adoption of the Annual Construction Program (ACP). Adoption of this program is an element of the County budget process.

This ACP is identical to the 1st year of the Six Year Transportation Improvement Program (STIP) approved on September 29, 2015.

Information:
A proposed resolution is enclosed for your consideration. In addition, each project that has funding available in 2016 has a project summary sheet for your review.

If you have questions or require additional information, please contact me at the number provided above.
RESOLUTION NO. ____________

APPROVING THE WHATCOM COUNTY
2016 ANNUAL CONSTRUCTION PROGRAM

WHEREAS, pursuant to RCW 36.81.130, the Whatcom County Engineer did file with the Whatcom County Council a recommended plan for laying out, construction, maintenance and special maintenance of County roads for the fiscal year of 2016; and,

WHEREAS, the Whatcom County Council held a public meeting on the 29th day of September, 2015, and has considered the testimony given as well as the recommended plan; and,

WHEREAS, the Whatcom County Council had determined that said plan is necessary as nearly as practicable to the Whatcom County 2016-2021 Six-Year Transportation Program, approved by Resolution 2015-033 on September 29, 2015.

NOW, THEREFORE, BE IT RESOLVED that the 2016 Whatcom County Annual Construction Program is hereby approved as shown on the attachment hereto; and

BE IT FURTHER RESOLVED that no changes be made in the program without the unanimous vote of the Whatcom County Council; and

BE IT FINALLY RESOLVED that the 2016 Annual Construction Program be filed with the Director of Highways of the State of Washington.

APPROVED this ____ day of __________, 2015.

ATTEST:

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Chair of the Council

APPROVED AS TO FORM:

Dan Gibson, Chief Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
### Annual Construction Program for 2016

<table>
<thead>
<tr>
<th>Item Number</th>
<th>Road/Project Name and Location</th>
<th>Functional Class</th>
<th>Source of Funds</th>
<th>Estimated Expenditures - Dollars</th>
</tr>
</thead>
<tbody>
<tr>
<td>01 R1</td>
<td>CRP #907001 Birch Bay Drive &amp; Pedestrian Facility from Lora Lane to Cedar Avenue</td>
<td>ABHL</td>
<td>104,000</td>
<td>400,000</td>
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<tr>
<td>02 R2</td>
<td>CRP #914014 Birch Bay Drive, Embankment Repair</td>
<td>AH</td>
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<tr>
<td>03 R3</td>
<td>CRP #915020 Stater Rd/Jordan Creek Fish Passage</td>
<td>ABDL</td>
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<td>04 R4</td>
<td>CRP #915009 Lake Whatcom Blvd, Water Quality Improvements, Cable Street to Strawberry Point</td>
<td>ABDG</td>
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<tr>
<td>05 R5</td>
<td>CRP #916002 Horton Road, Northwest Drive to Aldrich Road</td>
<td>ABDEFGH</td>
<td>250,000</td>
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<tr>
<td>06 R6</td>
<td>CRP #914001 Stater Road &amp; Northwest Drive</td>
<td>ABDG</td>
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<td>07 R7</td>
<td>CRP #916003 Stater Road, I-5 Interchange to 0.10 E. of Pacific Hwy, Reconstruction</td>
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<td>08 R8</td>
<td>CRP #916004 Stater Road, Northwest Drive to Aldrich New Roadway</td>
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<td>09 R9</td>
<td>CRP #913014 Roadway Frost Depth Detectors Various Locations</td>
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<td>10 R10</td>
<td>CRP #916005 Bennett Drive, Marine Dr. to West Bakerview Rd. Roadway surface, safety &amp; ADA Improvements</td>
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<td>11 R11</td>
<td>CRP #908001 Lummi View Drive Bank Stabilization Slide Repair</td>
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<td>12 R13</td>
<td>CRP #912017 Lummi Nation Transportation Projects Various Locations on Reservation</td>
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<td>13 R14</td>
<td>CRP #910002 Point Roberts Transportation Improvements Project locations to be determined in 2015</td>
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<td>14 R15</td>
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<td>16 R20</td>
<td>CRP #915012 Marine Dr./BNSF Brdg Bicycle Warning Automatically automated slow vehicle/bicycle warning signs</td>
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<td>ITEM NUMBER</td>
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<td>FUNCTIONAL CLASS</td>
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<td>17</td>
<td>R21</td>
<td>CRP #915013 Turlington Rd/Jones Crk Road Grade Modification and Creek Channelization</td>
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<tr>
<td>18</td>
<td>R25</td>
<td>CRP #916007 Hemmi Rd Flood Prevention Discovery Bay between Old Gardner Rd &amp; Salmon Crk</td>
<td>0.300</td>
<td>08</td>
</tr>
<tr>
<td>19</td>
<td>R26</td>
<td>CRP #915014 Innis Crk Rd Raise roadway</td>
<td>0.250</td>
<td>09</td>
</tr>
<tr>
<td>20</td>
<td>R26</td>
<td>CRP #915015 County Roadway Safety Program Various Safety Improvements</td>
<td>0.300</td>
<td>07</td>
</tr>
<tr>
<td>21</td>
<td>R29</td>
<td>CRP #915018 South Pass Rd Failure Repair Slide Repair</td>
<td>0.150</td>
<td>07</td>
</tr>
<tr>
<td>22</td>
<td>R30</td>
<td>CRP #901011 Birch Bay Lynden Rd/Pentway Rd Signalization</td>
<td>0.300</td>
<td>08</td>
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<tr>
<td>23</td>
<td>R31</td>
<td>CRP #915017 Lakebay Drive Crosswalk Safety and Multimodal Improvements</td>
<td>0.100</td>
<td>16</td>
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<tr>
<td>24</td>
<td>R33</td>
<td>CRP #916008 Yacht Club Rd RR Quiet Zone Crossing Upgrades</td>
<td>0.250</td>
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<tr>
<td>25</td>
<td>B1</td>
<td>CRP #998027 Potter Rd/South Fork Nooksack River Bridge @ 605th Ave. - Replacement</td>
<td>0.300</td>
<td>09</td>
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<tr>
<td>26</td>
<td>B2</td>
<td>CRP #910017 Marine Dr/Little Squalicum River Bridge @ 270th Ave. - Replacement</td>
<td>0.300</td>
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<tr>
<td>27</td>
<td>B3</td>
<td>CRP #910017 Marine Dr/Little Squalicum River Bridge @ 270th Ave. - Replacement</td>
<td>0.300</td>
<td>16</td>
</tr>
<tr>
<td>28</td>
<td>B4</td>
<td>CRP #910017 Marine Dr/Little Squalicum River Bridge @ 270th Ave. - Replacement</td>
<td>0.300</td>
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<tr>
<td>29</td>
<td>B5</td>
<td>CRP #910001 Portage Way/Dakota Crk Bridge @ 500th Ave. - Replacement</td>
<td>0.200</td>
<td>07</td>
</tr>
<tr>
<td>30</td>
<td>B8</td>
<td>CRP #910001 Portage Way/Dakota Crk Bridge @ 500th Ave. - Replacement</td>
<td>0.200</td>
<td>07</td>
</tr>
<tr>
<td>31</td>
<td>B9</td>
<td>CRP #910001 Portage Way/Dakota Crk Bridge @ 500th Ave. - Replacement</td>
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<tr>
<td>32</td>
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<tr>
<td>33</td>
<td>B11</td>
<td>CRP #910001 Portage Way/Dakota Crk Bridge @ 500th Ave. - Replacement</td>
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<td>34</td>
<td>B12</td>
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<td>35</td>
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<td>36</td>
<td>B15</td>
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<tr>
<td>37</td>
<td>B16</td>
<td>CRP #910001 Portage Way/Dakota Crk Bridge @ 500th Ave. - Replacement</td>
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<tr>
<td>ITEM NO.</td>
<td>ROAD/PROJECT NAME AND LOCATION</td>
<td>ROAD LOG NO.</td>
<td>PROJECT LENGTH (Miles)</td>
<td>FUNCTIONAL CLASS</td>
</tr>
<tr>
<td>---------</td>
<td>---------------------------------</td>
<td>--------------</td>
<td>------------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>38</td>
<td>CRP #910012 Refurbish/Upgrade of the Whatcom Chief</td>
<td>F1</td>
<td></td>
<td>J</td>
</tr>
<tr>
<td>39</td>
<td>CRP #916009 Ferry Dock Improvements</td>
<td>F2</td>
<td></td>
<td>IJ</td>
</tr>
<tr>
<td>40</td>
<td>CRP #916010 Various Bridges Rehabilitation/Replacement As prioritized</td>
<td>Y1</td>
<td></td>
<td>ABDI</td>
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<tr>
<td>41</td>
<td>CRP #916011 Right of Way Acquisition Various locations</td>
<td>Y2</td>
<td></td>
<td>E</td>
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<tr>
<td>42</td>
<td>CRP #916012 Unanticipated Site Improvements As prioritized</td>
<td>Y3</td>
<td></td>
<td>E</td>
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<tr>
<td>43</td>
<td>CRP #916013 Stormwater Quality Improvements Various locations</td>
<td>Y4</td>
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<td>I</td>
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<td>44</td>
<td>CRP #916014 Non-motorized Transportation Improvements Various locations</td>
<td>Y5</td>
<td></td>
<td>FGH</td>
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<tr>
<td>45</td>
<td>CRP #916015 Railroad Crossing Improvements Various locations</td>
<td>Y7</td>
<td></td>
<td>FGH</td>
</tr>
<tr>
<td>46</td>
<td>CRP #916016 Neighborhood Traffic Calming Various locations</td>
<td>Y8</td>
<td></td>
<td>E</td>
</tr>
</tbody>
</table>
INSTRUCTIONS FOR USE OF THE ANNUAL CONSTRUCTION PROGRAM FORM  
(Crab Form #3, Revised 06/09) WAC 136-16-010 through 042  

**** GENERAL DATA REQUIREMENTS ****  

AGENCY ACTION blocks; complete all items as shown. Entering your county name will input your County Forces Limit on Line B.  

CONSTRUCTION BY COUNTY FORCES COMPUTATION as per RCW 36.77.065; is computed for you from the Limits Table as follows:  

<table>
<thead>
<tr>
<th>Counties over 400,000 population:</th>
<th>Counties 150,000 to 399,999 population:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$3,250,000 \times (1 + (2015 MVFT %) / 100)</td>
<td>$1,750,000 \times (1 + (2015 MVFT %) / 100)</td>
</tr>
<tr>
<td>Counties 30,000 to 149,999 population.</td>
<td>Counties under 30,000 population</td>
</tr>
<tr>
<td>$1,250,000 \times (1 + (2015 MVFT %) / 100)</td>
<td>$800,000 \times (1 + (2015 MVFT %) / 100)</td>
</tr>
</tbody>
</table>

**** COLUMNAR DATA REQUIREMENTS ****  

(1) Item No. - Use consecutive numbers beginning with 1. No priority is assumed.  

(2) 6 Year Road program item No. - Use the priority number from column 1 on your most recent 6 year transportation improvement program (DOT Form 140-049). No number is necessary for miscellaneous projects as permitted under WAC 136-16-025.  

(3) Road Log No. - County road log number (when applicable) as per the current road log as maintained by each county.  

(4) Road/Project Name and Location - Enter the road or project name and location information as assigned by the county. As appropriate, include mileposts (from county road log), bridge numbers and etc.  

(5) Project length - Enter the project length in miles.  

(6) Functional Class - Enter the functional class for the road on which the project is to be located. The codes listed below can be found in the road log.  

<table>
<thead>
<tr>
<th>RURAL</th>
<th>URBAN</th>
</tr>
</thead>
<tbody>
<tr>
<td>02 Principal Arterial</td>
<td>12 Principal Arterial</td>
</tr>
<tr>
<td>06 Minor Arterial</td>
<td>13 Principal Arterial</td>
</tr>
<tr>
<td>07 Major Collector (FAS)</td>
<td>14 Major Arterial</td>
</tr>
<tr>
<td>08 Minor Collector</td>
<td>15 Principal Arterial</td>
</tr>
<tr>
<td>09 Local Access</td>
<td>16 Minor Arterial</td>
</tr>
<tr>
<td></td>
<td>17 Collector Arterial</td>
</tr>
<tr>
<td></td>
<td>19 Local Access</td>
</tr>
</tbody>
</table>

(7) Type of Work - Use one or more of the codes listed. List major work items first reflecting the nature of the anticipated final project.  

A. GRADING & DRAINAGE  
B. BASE & TOP COURSE  
C. B.S.T. / SEALS  
D. A.C. / P.C.C. PAVEMENT  
E. CURBS AND GUTTERS  
F. SIDEWALKS  
G. TRAFFIC FACILITIES  
H. PATHS, TRAILS, BIKEWAYS  
I. BRIDGES  
J. FERRY FACILITIES  
K. ENVIRONMENTAL MITIGATION  
L. FISH PASSAGE  

(8) Environmental Assessment - Use the following assessment codes (Reference: State Environmental Policy Act):  

S = Significant  
I = Insignificant  
E = Exempt  

*** PLEASE NOTE THAT THE DOLLARS IN COLUMNS 9 THROUGH 16 REFLECT ONLY THE AMOUNTS AND SOURCES EXPECTED TO BE SPENT DURING THE APPLICABLE CALENDAR YEAR  

(9) Source of Funds - County - Enter the total amount of county funds estimated for the project (use columns 10 and 11 for RID, developer contributions, and similar non-county funds).  

(10) Source of Funds - Other Funds - Enter the total amount of other funds estimated for the project. If more than one "other" source (such as RAP + FAS), show each "other" amount separately.  

(11) Source of funds - Other Funds Program Source - For each "other" source shown in column 10, enter the abbreviation for the source type (ex: RAP, FAS, CAPP, BROS, UAB, TIB, RID, PVT, PWTF, etc.)  

(12) Estimated Expenditures - Engineering - Enter the estimated amount of engineering (PE, CE and Administration) expenditures for the project next year.  

(13) Estimated Expenditures - Right of Way - Enter the estimated amount of right of way expenditures for the project next year.  

(14) Estimated Expenditures - Construction - Contract - Enter the estimated amount of contract construction expenditures, excluding PE, CE and Administration, to be incurred by the county.  

(15) Estimated expenditures - Construction - County Forces - Enter the estimated amount of county forces expenditures, excluding PE, CE and Administration, for the project in the program year. Materials incorporated into a county forces project, even though created or supplied by a separate contract (ex: crushing) are to be included in the county forces construction amount.  

(16) Estimated expenditures - Grand Total - This is the total estimated expenditures for the project next year. This must equal the sum of columns 12 through 15 and also the sum of columns 9 through 10. The program total of this column should also equal the amount of construction shown in the final annual road budget.  

Your proposed construction by county forces is totaled at the top on line C."TOTAL COUNTY FORCES CONST PROGRAM - column (15)" Your limit, based on population and % MVFT distribution is listed in B, PUBLISHED "COUNTY FORCES LIMIT (see instructions)" from the Limits Table.
Birch Bay Drive and Pedestrian Facility
CRP #907001

Construction Funding Year(s): 2016 / 2017 / 2018

Project Narrative:
This project is located parallel to Birch Bay Drive from Cedar Avenue to the mouth of Terrell Creek, in Sections 30 and 31, T40N, R1E, and Sections 24 and 25, T40N, R1W. This is a 1.58 mile separated berm with pathway to encourage pedestrian use along Birch Bay Drive to support safety and to protect the roadway from storm damage. In addition, the project will provide mitigation for both beach erosion and roadway protection. This project is listed #R1 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Phase I of the Feasibility Study was completed in 2006. Phase 2A (Preliminary Construction Cost Estimate) was completed in 2007, and updated in spring of 2013. Preliminary Engineering began in late 2013, RW acquisition began in 2015 and construction is planned for 2018/2017. Additional funding sources will be pursued as they become available.

Total Estimated Project Cost: $11,450,000
Expenditures to Date: $1,850,000

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$3,200,000 (STP)</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$8,250,000</td>
</tr>
</tbody>
</table>

Environmental Permitting: Whatcom County-Shorelines, WDFW-HPA, Army Corps of Engineers, DOE; Sec 404 Clean Water Act

Right-of-Way Acquisition (Estimate): TBD

County Forces (Estimate): N/A
Birch Bay Drive, Embankment Repair
CRP # 914014

Construction Funding Year(s): 2016

Project Narrative:
This project is an embankment repair near Lora Lane in Section 30-31 of T40N, R1E. This project is listed #R2 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Preliminary engineering and permitting completed. Construction scheduled for 2016 pending obtaining final easements.

Total Estimated Project Cost: $227,500
Expenditures to Date: $7,500

Funding Sources:
Federal $0
State $0
Local $227,500

Environmental Permitting HPA, SEPA, County Shorelines, ACOE
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) $200,000

map of the area around Birch Bay Drive with location marked as R2
Slater Road/Jordan Creek Fish Passage
CRP # 915007

Construction Funding Year(s): TBD

Project Narrative: This project is located on Slater Road in Section 34, T39N, R1E. This project will replace an existing deteriorated, fish impassable arch culvert conveying Jordan Creek beneath Slater Road. The project is listed #R3 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: Preliminary engineering work, including an alternative analysis of replacement options is underway. A recommended replacement concept will be presented to Council in late 2015.

Total Estimated Project Cost: TBD
Expenditures to Date: $125,000

<table>
<thead>
<tr>
<th>Funding Sources</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td></td>
</tr>
<tr>
<td>State</td>
<td></td>
</tr>
<tr>
<td>Local</td>
<td>$400,000 (STIP 2016-2021)</td>
</tr>
</tbody>
</table>

Environmental Permitting: HPA, SEPA, Sec 404, NEPA

Right-of-Way Acquisition (Estimate): $50,000

County Forces (Estimate):
Lake Whatcom Boulevard, Phase II
Water Quality Improvements
CRP # 915009

Construction Funding Year(s): 2016/2017/2018

Project Narrative:
This project is located approximately 1 mile east of Bellingham, in Sections 35 and 36, T38N, R3E. The work will involve drainage improvements and pedestrian improvements to a 1.3 mile section of Lk Whatcom Blvd between Cable Street and Strawberry Point, addressing stormwater quality issues. This project is listed #R4 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Survey work with associated base map and R/W research began in 2015. Preliminary design will be initiated to evaluate R/W needs, permit requirements and overall project costs. Construction time frame will be contingent on addressing funding needs along with resolution of permitting and R/W issues.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $ 35,000

Funding Sources:
Federal $0
State $0
Local $5,000,000 (Grant funding will be sought)

Environmental Permitting
SEPA, CLR/CAO, Shorelines

Right-of-Way Acquisition (Estimate) TBD

County Forces (Estimate) $10,000
Horton Road
Northwest Drive to Aldrich Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This new roadway project is located between Northwest Drive and Aldrich Road in Section 2 of T38N, R2E. The work involves a ½ mile of new roadway alignment, along with all the associated permitting, storm water and R/W issues. This project is listed #R5 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, right-of-way, and permitting to begin in 2016 with Surface Transportation Program (STP) Grants. Construction schedule dependent upon funding agreements with City of Bellingham and other sources.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal $990,000</td>
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<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $250,000</td>
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</tbody>
</table>

Environmental Permitting ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) N/A
Slater Road and Northwest Drive
CRP # 914001

Construction Funding Year(s): TBD

Project Narrative:
The intersection of Slater and Northwest Roads is in Section 2 of T38N, R2E. The intersection will be reconstructed to a 4-leg round-a-bout. Fish passage improvements will also be constructed on Bear Creek which passes underneath Slater Road at this location. This project is listed #R6 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
$21,000,000 in state funding available for this project and project #R7, Slater Road, I5 Interchange, in 7/2019. Design and permitting expected to take 3-4 years with construction in 2022 or 2023.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>Funding Sources:</th>
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</thead>
<tbody>
<tr>
<td>$21,000,000*</td>
<td>Federal: $0</td>
</tr>
<tr>
<td>*Includes Project #6 and #7</td>
<td>State: $21,000,000 (7/2019 for Projects #6 and #7)</td>
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<tr>
<td>Expenditures to Date:</td>
<td>Local: $50,000</td>
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<tr>
<td>$0</td>
<td></td>
</tr>
</tbody>
</table>

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Slater Road
I5 Interchange
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This project is located north of Bellingham in Section 3, T38N, R2E. This project will improve the interchange/intersection of Interstate 5 and Slater Road. This includes the intersection of Slater Road with Rural Road and Pacific Highway. This project is listed #R7 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: $21,000,000 available for this project and project #R6, Slater and Northwest, in 7/2019. Design and permitting expected to take 3-4 years with construction in 2022 or 2023.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$21,000,000*</th>
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</thead>
<tbody>
<tr>
<td>*Includes Project #6 and #7</td>
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<tr>
<td>Expenditures to Date:</td>
<td>$ 0</td>
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<table>
<thead>
<tr>
<th>Funding Sources:</th>
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</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
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<tr>
<td>State</td>
<td>$21,000,000 (7/2019 for Projects #6 and #7)</td>
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<tr>
<td>Local</td>
<td>$ 50,000</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permiting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>
Slater Road
Northwest Drive to Aldrich
CRP # 914012

Construction Funding Year(s): TBD

Project Narrative:
This new roadway project is located in Sections 1 and 2 of T38N, R2E. The work involves the construction of a new roadway between Northwest Drive and Aldrich Drive as well as construction of a round-a-bout at the new intersection of Northwest Drive and Horton Road. This project is listed #R8 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, right-of-way and construction dependent upon funding agreements with the City of Bellingham and other sources.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
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</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs

Right-of-Way Acquisition (Estimate): TBD

County Forces (Estimate): N/A
Roadway Frost Depth Detectors
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative:
This item provides funding to address replacement of the County's aging network of roadway frost depth detectors. These detectors are critical for implementing appropriate roadway restrictions to prevent structural damage following periods of deep frost. It is listed #R9 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $250,000</th>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal $</td>
</tr>
<tr>
<td></td>
<td>State $</td>
</tr>
<tr>
<td></td>
<td>Local $250,000 (STIP 2015-2016)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>

Due to the nature of this item, no map exists. Location of the new roadway frost depth detectors will be determined in 2016.
**Bennett Drive, Marine Dr. to West Bakerview Rd.**
**CRP # Not Assigned**

**Construction Funding Year(s):** 2016

**Project Narrative:** This road project is located in Sections 14 & 23, T38N, R2E. This project will consist of resurfacing Bennett Drive from Marine Drive to West Bakerview Road. Additionally, all curb ramps and driveways will be upgraded to current ADA (Americans with Disabilities Act) standards and the roadway will be rechanneled to create a continuous bike lane. This project is listed as #R10 on the 2016-2021 Six-Year Transportation Improvement Program.

**Project Status:** Design and R/W will begin in 2016. Outreach and coordination with City of Bellingham and Bicycle Pedestrian Advisory Committee in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
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<table>
<thead>
<tr>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Federal</td>
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<tr>
<td>State</td>
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<tr>
<td>Local $100,000</td>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Lummi View Drive Bank Stabilization  
CRP # 908001

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Section 2, T37N, R1E. This project will consist of repair and stabilization of a ocean bluff failure that threatens a section of Lummi View Drive. This project is listed #R11 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Survey and preliminary cost scoping to be performed in 2016.

Total Estimated Project Cost: $ TBD  
Expenditures to Date: $2,500

Funding Sources:
- Federal  
  - $0
- State  
  - $
- Local  
  - $30,000 (STIP 2016)

Environmental Permitting  
SEPA, CLR/CAO

Right-of-Way Acquisition (Estimate)  
TBD

County Forces (Estimate)  
TBD
# Lummi Nation Transportation Projects

**CRP #912017**

**Construction Funding Year(s):** 2016

**Project Narrative:**
The Lummi Nation Transportation Projects is located in Section 2, T37N, R1E and Section 34, T38N, R1E. This work, in fulfillment of the ferry lease obligation, involves the construction of transportation improvement projects in accordance with Exhibit C of the October 27, 2011 Uplands Lease Agreement for Lummi Island Ferry Use at Gooseberry Point. This project is listed **#R13** on the 2016-2021 Six-Year Transportation Improvement Program.

**Project Status:**
Projects funds will be available for expenditure when funds of equal or greater value are matched by the Lummi Nation.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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<tbody>
<tr>
<td>Expenditures to Date:</td>
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<td>Federal</td>
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<tr>
<td>State</td>
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<tr>
<td>Local</td>
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</tbody>
</table>

- **Environmental Permitting** N/A
- **Right-of-Way Acquisition (Estimate)** N/A
- **County Forces (Estimate)** N/A

Due to the nature of this item, no map exists. Location of the new transportation projects will be determined in 2015.
Point Roberts Transportation Improvements
CRP # 910002

Construction Funding Year(s): 2016 / 2017

Project Narrative:
Point Roberts is located in T40N and T41N, R3W. The proposed improvements would be specific to area needs and the development of projects to be funded by the Pt. Roberts Transportation Benefit District. This project is listed #R14 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Public Works has assigned staff working with the Point Roberts Transportation Benefit District Advisory Committee to coordinate project evaluation and selection. The committee has recommended shoulder improvements on Marine Drive, traffic control study for the intersection of Tyee Drive and Benson Road as well as the intersections of Gulf Road and Marine Drive.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $0 |
| Funding Sources: |  |
| Federal | $0 |
| State | $0 |
| Local | $1,000,000 |

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

Point Roberts map showing locations R14 and other roads and landmarks.
East Smith Road
Everson-Goshen Road to SR 542
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative:
This East Smith Road project is located between Everson-Goshen Road and State Route 542 in Section 25 of T39N, R3E and Sections 28, 29, 30 T39N, R4E. The work will involve the pavement rehabilitation of approximately 3.25 miles of roadway. This project is listed #R15 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction to be completed in 2016. Rural Arterial Pavement Preservation (RAPP) grant funds will be sought.

Total Estimated Project Cost: $1,900,000
Expenditures to Date: $0

Funding Sources:
- Federal
- State
- Local $5,000

Environmental Permitting: SEPA, ESA
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A
East Smith Road & Hannegan Road
CRP # 914002

Construction Funding Year(s): TBD

Project Narrative:
The intersection of East Smith and Hannegan Roads is located in Sections 28, 29, 32 and 33, T39N, R3E. This project is listed #R16 on the 2016-2021 Six-Year Transportation Improvement Program. This intersection currently experiences delays due to the lack of left-turn channelization on Smith Road. The first phase of this project is to analyze a range of solutions as well as their associated benefits, limitations, and costs.

Project Status:

Total Estimated Project Cost: $ TBD
Expenditures to Date: $14,000

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Environmental Permitting    SEPA, ESA
Right-of-Way Acquisition (Estimate) N/A
County Forces (Estimate)    N/A
Marine Drive/BNSF Bridge Bicycle Warning
CRP # 915012

Construction Funding Year(s): 2016

Project Narrative:
This project is located in Section 15 of T38N, R2E. The work involves installation of a bicycle/slow moving vehicle warning system on the Marine Drive bridge over the BNSF railroad tracks. This project is listed #R20 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, and construction to occur in 2016.

Total Estimated Project Cost: $100,000
Expenditures to Date: $0

Funding Sources:
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Environmental Permitting | ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate) | TBD
County Forces (Estimate) | N/A
Turkington Road/Jones Creek
CRP # 905013

Construction Funding Year(s):
TBD

Project Narrative:
This project is located in Sections 7, T37N, R5E. This work involves completing design of road and bridge modifications in this area in coordination with the debris flow berm project being developed by the River and Flood Division. The project is listed #R21 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Alternate analysis work is underway by the River & Flood Division.

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Environmental Permitting
BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR

Right-of-Way Acquisition (Estimate) $50,000

County Forces (Estimate) N/A
Hemmi Road Flood Prevention
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative:
This Hemmi Road Flood Prevention project from Old Guide Road and Salmon Creek, is located in Section 13 of T39N, R2E. Hemmi Road is submerged several months of the year at this location. This project is listed #R25 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Project design and permitting in 2016 with alternatives and associated costs identified.

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Environmental Permitting
Right-of-Way Acquisition (Estimate)
County Forces (Estimate)
### Innis Creek Road
#### CRP # 915014

**Construction Funding Year(s):** TBD

**Project Narrative:**
This project is located northeast of Wickersham in Section 29, T37N, R5E. The work involves raising a quarter mile section of Innis Creek Road to mitigate flooding issues. This project is listed **#R26** on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**
Preliminary design and permitting work is underway with alternatives and associated costs to be developed in 2016.

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**Environmental Permitting:** TBD

**Right-of-Way Acquisition (Estimate):** TBD

**County Forces (Estimate):** TBD

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![Map of Innis Creek Road and surrounding areas.](image-url)
County Roadway Safety Program
CRP # 915015

Construction Funding Year(s): 2016/2017

Project Narrative:
This project was the result of a Federal Safety Initiative to reduce fatalities and serious injury collisions on county roadways throughout the state. Whatcom County's grant addresses safety concerns through signage and rumble strips. This project is **#R28** on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:

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Environmental Permitting: N/A
Right-of-Way Acquisition (Estimate): N/A
County Forces (Estimate): N/A

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
South Pass Road Failure Repair
CRP #915018

Construction Funding Year(s): 2016

Project Narrative: This project will consist of excavating the existing roadway to install roadway stabilizing geogrid wraps to repair damage caused by severe winter rains in February 2015. Also, guardrail will be installed where warranted and drainage upgrades. This project is listed #R29 in the 2016-2021 Six-Year Transportation Improvement Program.


Total Estimated Project Cost: $782,500
Expenditures to Date: $55,000

Funding Sources:

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Environmental Permitting

| Right-of-Way Acquistion (Estimate) | $10,000 |
| County Forces (Estimate)         | $10,000 |
Birch Bay Lynden Rd/Portal Way – Signalization - Mitigation
CRP # 91011

Construction Funding Year(s): 2016

Project Narrative: This project is located south of Blaine and west of I-5, in Section 22, T40N, R1E. Proposed improvements include signalization, channelization and illumination of the intersection with minor changes to the vertical and horizontal alignment. Stormwater treatment and detention will also be implemented into this project. This project is listed #R30 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: The project is substantially complete as of April 2015. The project will be physically complete in April 2016, once the plant establishment period has been attained.

| Total Estimated Project Cost: | $3,600,000 |
| Expenditures to Date: | $3,412,000 |

| Funding Sources: |
| Federal | $3,250,000 STP |
| State | $750,000 RAP |
| Local | $300,000 |

| Environmental Permitting | SEPA, Corps of Engineers, CLR/CAO, HPA |
| Right-of-Way Acquisition (Estimate) | Completed |
| County Forces (Estimate) | N/A |
Lakeway Drive Corridor Improvement
CRP # Not Assigned

Construction Funding Year(s): 2018/2019

Project Narrative:
This project is located in Section 34, T38N, R3E. This project proposes to rechannelize 1.3 miles of Lakeway Drive to create a center left turn, ADA upgrades and bus pull-outs. This project is listed #R32 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Corridor Study performed in 2015. Engineering and construction to occur in 2018 or 2019.

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<tbody>
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<td></td>
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Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Yacht Club Rd RR Quiet Zone
CRP # Not Assigned

Construction Funding Year(s): 2018/2019

Project Narrative:
This project is located in Section 30, T37N, R3E. This project proposes to upgrade the BNSF crossing to “Quiet Zone” standards. This project is listed #R33 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:

<table>
<thead>
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<th>Total Estimated Project Cost</th>
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<tr>
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<td>$0</td>
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Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Potter Road
South Fork Bridge No. 148 Replacement
CRP #998027

Construction Funding Year(s): 2016 / 2017

Project Narrative:
This bridge replacement project is located in Sections 17 & 18, T38N, R5E. The existing single-lane bridge (14.5' wide & 243' in length) is Structurally Deficient and Functionally Obsolete. The replacement structure is a 360’ two-span, pre-stressed and post-tensioned concrete girder bridge. Access will be maintained throughout construction as this is the only public access to the residential, agricultural and tribal community west of the river. The project is listed #B1 on the 2016-2021 Six-Year Transportation Improvement Program, and has a project-based budget.

Project Status:
Construction began in May 2014, and is approximately 90% complete. It is expected that construction will be completed in summer of 2016, with plant establishment environment mitigation fully complete in 2017.

| Total Estimated Project Cost: | $9,600,000 |
| Expenditures to Date: | $8,000,000 (thru 2015) |

| Funding Sources: |
| Federal | $7,074,000 BRAC |
| State | $0 |
| Local (includes potential $1 million contribution from BIA) | $1,814,000 |

Environmental Permitting:
BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR

Right-of-Way Acquisition (Estimate):
Complete

County Forces (Estimate):
N/A
Marine Drive / Little Squalicum Creek - Bridge No. 1 Rehabilitation
CRP #910017

Construction Funding Year(s):
TBD

Project Narrative:
This project is located near the Bellingham city limits in Section 8, T38N, R2E. This is a rehabilitation project to replace the bridge deck, strengthen the girders and cross beams, and remove the existing load restrictions on the bridge. The project is listed #B2 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
The project was submitted for BRAC funding in May 2012. Construction pending acquisition of BRAC funds.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:

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<th>Source</th>
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<tbody>
<tr>
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Environmental Permitting
HPA, NEPA

Right-of-Way Acquisition (Estimate)
TBD

County Forces (Estimate)
TBD
Project Narrative:
This project is located just south of the Lynden city limits in Section 20, T40N, R3E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #B3 on the 2016-2021 Six Year Transportation Program.

Project Status:
BRAC funding acquired. Construction to be completed in 2015 with final mitigation planting work to be completed in 2016.

Total Estimated Project Cost: $240,000
Expenditures to Date: $200,000

Funding Sources:
- Federal: $220,000 (BR)
- State: $
- Local: $ 20,000

Environmental Permitting: HPA, SEPA, SEC 404, NEPA, County Shorelines

Right-of-Way Acquisition (Estimate): $5,000 (Temporary construction access easement)

County Forces (Estimate): None
South Pass Road / Saar Creek - Bridge No. 212 Replacement
CRP #911004

Construction Funding Year(s): 2016

Project Narrative:
This project is located southeast of Sumas in Section 17, T40N, R5E. This is a project to replace the existing 31 foot structurally deficient bridge with a 50 foot bridge. This project is listed as #B4 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Design and permitting to be completed in 2015 with construction in 2016.

<table>
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Environmental Permitting
HPA, SEPA, SEC 404, County Shorelines

Right-of-Way Acquisition (Estimate)
None Required

County Forces (Estimate)
N/A
Portal Way / Dakota Creek - Bridge No. 500 Seismic Retrofit
CRP #910001

Construction Funding Year(s): 2015

Project Narrative:
This project is located south of Blaine in Section 8, T40N, R1E. This is a seismic retrofit project to mitigate the risk of failure in the event of a seismic event. This project is listed #B5 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Design work and permitting completed. Construction started in May 2015 and is expected to be completed in November 2015. Mitigation planting work will continue into 2016

Total Estimated Project Cost: $4,048,6004
Expenditures to Date: $3,900,000

Funding Sources:

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Environmental Permitting
HPA, SEPA, SEC 404, NEPA, County Shorelines

Right-of-Way Acquisition (Estimate)
None Required

County Forces (Estimate)
None

[Map of the area showing the location of Bridge No. 500]
N. Lake Samish Road Bridge No. 107 Replacement Study
CRP # 913006

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Lake Samish in Section 27, T37N, R3E. This is a project to perform an engineering analysis on rehabilitation/replacement options for this existing 250-foot timber bridge. This project is listed #B8 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Preliminary engineering work is underway

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $40,000 |

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| Environmental Permitting | TBD |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate) | TBD |

[Map of the area showing the location of B8 and N. Lake Samish Road Bridge No. 107.]
Hannegan Road Bridge No. 236 Replacement
CRP # 913007

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Hannegan Road between Central and Ten Mile Roads in Section 16, T39N, R3E. This is a project to replace the last 31-foot channel beam bridge on the Hannegan Road. This old design is not suited for the volume of truck traffic present on the Hannegan Road. This project is listed #B9 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Project design is nearly complete and permitting work is underway. Rural Surface Transportation Program (STP) Funds have been obtained for the construction of the project.

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Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Roberts Road/Anderson Creek, Bridge No. 249
CRP # 915020

Construction Funding Year(s): 2017

Project Narrative:
This project is located west of Deming in Section 19, T39N, R4E. This is a bridge replacement project. This project is listed #B10 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:

| Total Estimated Project Cost: | $1,370,000 |
| Expenditures to Date: | $25,000 |
| Funding Sources: | | |
| Federal | $1,080,000 |
| State | $0 |
| Local | $290,000 |

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Massey Road/Sumas River, Bridge No. 291
CRP # 915016

Construction Funding Year(s): TBD

Project Narrative:
This project is located east of Everson in Section 5, T39N, R4E. This is a project to replace this structurally deficient bridge. This project is listed #B11 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Preliminary design and permitting is underway.

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<tbody>
<tr>
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<td>County Forces (Estimate)</td>
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</table>
Mosquito Lake Road/N. Fork Nooksack River, Bridge No. 332
CRP # 915001

Construction Funding Year(s): TBD

Project Narrative:
This project is located east of Deming in Section 27, T39N, R5E. This is a preliminary engineering study on the existing bridge. This project is listed #B12 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: Preliminary analysis is underway.

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<tr>
<td>County Forces (Estimate)</td>
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</tbody>
</table>
W. Badger Road/Bertrand Creek Bridge No. 50  
CRP # Not Assigned

Construction Funding Year(s): 2018

Project Narrative:  
This project is located west of Lynden in Section 12 & 14, T40N, R2E. This is to replace this structurally deficient bridge. This project is listed #B13 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: BRAC funding has been secured.

| Total Estimated Project Cost: | $1,801,000 |
| Expenditures to Date: | $5,000 |

Funding Sources:
- Federal: $1,430,000 (BRAC)
- State: $0
- Local: $371,000 (STIP 2016-2021)

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
South Bay Road/Fir Crk Brdg No. 120  
CRP # 915021

Construction Funding Year(s): 2016

Project Narrative: Project #46
This project is located on South Bay Road in Section 26 of T37N, R4E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #B15 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:

Total Estimated Project Cost: $270,000  
Expenditures to Date: $5,000

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<tr>
<th>Environmental Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>HPA, ACOE, SEPA, Shorelines</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition (Estimate)</th>
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</thead>
<tbody>
<tr>
<td>None required</td>
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<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
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</thead>
<tbody>
<tr>
<td>$250,000</td>
</tr>
</tbody>
</table>
Slater Road / Nooksack River Bridge No. 512 Overheight Detection
CRP #914013

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Slater Road at the Nooksack River in Section 6, T38N, R2E. This is an overheight detection/warning system project. The project is listed #B16 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Preliminary design work to be completed in 2016.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $1,500

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$30,000 (STIP 2016-2021)</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Refurbish / Upgrade of the Whatcom Chief
CRP #910012

Construction Funding Year(s): 2016

Project Narrative:
This project involves the upgrade and preservation of the current ferry to Lummi Island, M/V Whatcom Chief. The project definition will address safety, accessibility and reliability concerns associated with the approximately 50 year old ferry. This project is listed #F1 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $2,000 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $5,000 (STIP 2016) |

Environmental Permitting: None Required
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A

M/V Whatcom Chief
Ferry Dock Improvements
CRP #914004

Construction Funding Year(s): 2016 - 2017

Project Narrative:
This project includes improvements to the ferry docks. This project is listed #F2 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Design, permitting, and construction activities are ongoing.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $2,000,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: N/A</td>
<td>Federal $</td>
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<tr>
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<td>State $</td>
</tr>
<tr>
<td></td>
<td>Local $2,000,000 (STIP 2016-2021)</td>
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</table>

Environmental Permitting: HPA, SEPA, CORPS 404, COUNTY SHORELINES
Right-of-Way Acquisition (Estimate): None Required
County Forces (Estimate): N/A
Various Bridges Rehabilitation / Replacement
CRP #Not Assigned

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2016 - 2021</th>
</tr>
</thead>
</table>

**Project Narrative:**
This item provides funding to address unanticipated bridge rehabilitation and/or replacement. It is listed #Y1 on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur as necessary.

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<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$1,800,000</th>
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<tr>
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<tr>
<td>Federal</td>
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<td>Local</td>
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<tr>
<td>County Forces (Estimate):</td>
<td>TBD</td>
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Due to the nature of this item, no map exists. Council review and prioritization will be sought at the appropriate times.
Right of Way Acquisition  
CRP # Not Assigned

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2016-2021</th>
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</table>

**Project Narrative:**  
This item addresses the unanticipated need for Right-of-Way that may arise during a given year that requires immediate action. This project is listed #Y2 on the 2016-2021 Six Year Transportation Improvement Program.

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<tr>
<th>Project Status:</th>
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<td>Local $180,000</td>
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</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Unanticipated Site Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
This Annual Construction Program item addresses the unanticipated project(s) that may arise during a given year that require immediate action due to safety concerns, environmental factors, traffic volumes, accident history, funding or grant availability and other issues not related to an existing program project. This project is listed #Y3 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,800,000</th>
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<tr>
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<td>$1,800,000</td>
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<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate):  TBD</td>
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<tr>
<td>County Forces (Estimate): N/A</td>
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</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Stormwater Quality Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2017

Project Narrative:
This project varies in location. Identification and prioritization to be addressed and reviewed through County Council. This project is listed #Y4 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Design and construction will be completed in 2016/2017.

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<tr>
<th>Total Estimated Project Cost:</th>
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<tr>
<td>Local</td>
<td>$550,000</td>
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</table>

| Environmental Permitting    | TBD      |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate)    | TBD      |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Non-motorized Transportation Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
This program item addresses the need to identify and prioritize non-motorized projects for future consideration. Projects would include pedestrian and bike facilities (e.g. sidewalks, trails, shoulder widening) in various locations around the county. This project is listed #Y5 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

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<th>Total Estimated Project Cost: $600,000</th>
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<tr>
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<td></td>
<td>State $0</td>
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<tr>
<td></td>
<td>Local $600,000</td>
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</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Railroad Crossing Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
Locations to be determined. Identification and prioritization to be addressed. This project is listed #Y7 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Locations and prioritization of projects is on-going. Negotiations with BNSF will be a factor on timing and cost.

<table>
<thead>
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<td>State $0</td>
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<tr>
<td></td>
<td>Local $120,000</td>
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Environmental Permitting TBD
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) TBD

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Neighborhood Traffic Calming
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
Locations to be determined. Identification and prioritization to be addressed. This project is listed #Y8 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

| Total Estimated Project Cost: | $300,000 |
| Expenditures to Date:         | - 0 -    |

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<td>Federal</td>
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<tr>
<td>State</td>
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<tr>
<td>Local</td>
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</tbody>
</table>

| Environmental Permitting | TBD |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate)     | TBD |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
# WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
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<td>Executive:</td>
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## TITLE OF DOCUMENT: A Resolution in the Matter of Considering a Vacation for the Realignment of an Unnamed Alley Within the Birch Bay West End Estates Plat

## ATTACHMENTS:
1. Cover Memo
2. Resolution
3. Neighboring Land Owner’s Petition
4. Map of Site

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

- 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 attached Resolution in the Matter of Considering a Vacation for the Realignment of an Unnamed Alley Within the Birch Bay West End Estates Plat is submitted per RCW 36.87 and WCC 12-20.

Adoption of this resolution will trigger the County Engineer to report on the proposed vacation at a future Council meeting. Once the County Engineer’s report is submitted the road vacation will be considered by Council under a separate resolution and a public hearing will need to be scheduled.

## 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.

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202
MEMORANDUM

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

Through: Jon Hutchings, Director

From: Andrew Hester, Real Estate Coordinator

Date: September 28, 2015

Re: A Resolution in the Matter of Considering a Vacation for the Realignment of an Unnamed Alley within the Birch Bay West End Estates Plat

The attached petition asks for vacation of a portion of an unnamed alley in exchange for replacement of the vacated portion with a new alignment of equal value, within the Birch Bay West End Estates Plat.

Recommended Action
The attached petition for vacation meets all statutory requirements. It is recommended that the County Council direct the County Engineer to investigate and report his findings to the County Council.

Please contact me at extension 6216 if you have any questions regarding this action.

Encl.
RESOLUTION NO. ______

IN THE MATTER OF CONSIDERING A VACATION FOR THE REALIGNMENT OF AN UNNAMED ALLEY WITHIN THE BIRCH BAY WEST END ESTATES PLAT

WHEREAS, on April 2, 2015; Brian Southwick and Linda Kiens, submitted a petition for the vacation of a portion of an unnamed alley in exchange for replacement of the vacated portion with a new alignment of equal value, within the Birch Bay West End Estates Plat 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.

NOW, THEREFORE, BE IT RESOLVED that it is the intention of the Whatcom County Council to consider, in conjunction with dedication of a similar amount of right-of-way nearby, the vacation of the following described right of way:

That portion of Lot 19, “Plat of Birch Bay West End Estates”, Whatcom County, Washington, according to the plat thereof, recorded in Volume 8 of Plats, Page 76, records of said County and State more particularly described as follows:

Commencing at the Southeast corner of said Lot 19; thence North 34°42’40” East along the Easterly line of said lot, 125.00 feet to the Northeast corner of said lot; thence South 25°55’49” West, 45.54 feet; thence South 47°51’12” West, 14.09 feet; thence South 24°02’41” West, 25.04 feet; thence South 32°15’23” West, 37.70 feet to intersect the northerly right of way margin of Birch Bay Drive; thence North 77°10’00” West along said margin, 10.77 feet to the Point of Beginning.

Subject to and/or together with all easements, covenants, restrictions and/or agreements of record or otherwise.
Also subject to Whatcom County retaining an easement 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.

AND BE IT FURTHER RESOLVED that the County Engineer investigate and report to the
County Council on the matter of the proposed vacation so that the Council may set a public
hearing on the matter.

APPROVED this ___ day of ________________, 2015

ATTEST:

__________________________
Dana Brown-Davis, County Clerk

__________________________
Carl Weimer, Council Chair

APPROVED AS TO FORM:

__________________________
Daniel L. Gibson

Chief Civil Deputy Prosecutor
BEFORE THE WHATCOM COUNTY COUNCIL

IN THE MATTER OF VACATION OF
THE COUNTY ROAD KNOWN AS
BIRCH BAY WEST END ESTATES
ALLEY

Petitioned for by:
GAIL J. SOUTHWICK
LISA D. KIENS
et.al.

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 ATTACHED

3. The pertinent facts in support of this petition are: SEE ATTACHED

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.

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:

JIM IRWIN

702 KENTUCKY ST. #707

BELLINGHAM WA 98225 (360) 410-6745

Signed this 2nd day of April, 2015.

Page 1 of 2

I:\Records Assistant\WEB_FOLDER\Road Vacation Petition 2013.doc
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).

PETITIONERS’ NAMES: Property owned by petitioner (part of sec. or name of plat, see lot), TWP, (Blk) Range:

1. **LINDA KIEWS** 405 124 06 23 99 0000

2. **BRIAN DAVID** 405 124 06 23 0000

3. **Carl Dancer** 405 124 06 23 0000

4. **Laura Green** 405 124 06 24 0000

5. **Marcia Winkamer** 405 124 06 23 0000

6. **Bryce Carwung** 405 124 16 27 0000

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.
AREA OF DEDICATION FROM LOT 20

THAT PORTION OF LOT 20, "PLAT OF BIRCH BAY WEST END ESTATES", WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF,Recorded in Volume 8 of Plats, Page 76, Records of Said County and State More Particularly Described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTH 34°42'40" EAST ALONG THE WESTERLY LINE OF SAID LOT, 121.77 FEET; THENCE SOUTH 25°55'49" WEST, 46.72 FEET; THENCE SOUTH 47°51'12" WEST, 13.92 FEET; THENCE SOUTH 24°02'41" WEST, 23.65 FEET; THENCE SOUTH 32°15'23" WEST, 34.89 FEET TO INTERSECT THE NORTHERLY RIGHT OF WAY MARGIN OF BIRCH BAY DRIVE; THENCE NORTH 77°10'00" WEST ALONG SAID MARGIN, 10.60 FEET TO THE POINT OF BEGINNING.
PATHWAY PORTION TO BE VACATED

THAT PORTION OF LOT 19, "PLAT OF BIRCH BAY WEST END ESTATES", WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 8 OF PLATS, PAGE 76, RECORDS OF SAID COUNTY AND STATE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 19; THENCE NORTH 34°42'40" EAST ALONG THE EASTERLY LINE OF SAID LOT, 125.00 FEET TO THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTH 25°55'49" WEST, 45.54 FEET; THENCE SOUTH 47°51'12" WEST, 14.09 FEET; THENCE SOUTH 24°02'41" WEST, 25.04 FEET; THENCE SOUTH 32°15'23" WEST, 37.70 FEET TO INTERSECT THE NORTHERLY RIGHT OF WAY MARGIN OF BIRCH BAY DRIVE; THENCE NORTH 77°10'00" WEST ALONG SAID MARGIN, 10.77 FEET TO THE POINT OF BEGINNING.
Pertinent facts supporting the case for Southwick/Kliens vacation:

The slight relocation of the public right-of-way will create a more functional and usable route to Birch Bay Dr. The home located at 8352 Birch Bay Dr. currently owned by Brian Southwick and Lisa Kliens is in very close proximity to the right-of-way. This is not uncommon as the home was built in 1970 according to Whatcom County Assessor's records, at a time when a physical survey of property would not have been a requirement for approval a building permit. The proposed relocation will have no measurable impact or effect on the public's use of the right-of-way or safety of the persons using it (see attached exhibit drawings showing the relocation).
**WHATCOM COUNTY COUNCIL AGENDA BILL**

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<thead>
<tr>
<th>CLEARANCES</th>
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<th>Date</th>
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**TITLE OF DOCUMENT:**

**ATTACHMENTS:**

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<tr>
<th>SEPA review required?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
<th>( ) Yes</th>
<th>( ) NO</th>
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<tr>
<td>SEPA review completed?</td>
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<td>( ) NO</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

Discussion with Parks & Recreation staff regarding potential property acquisition for park purposes. (Discussion of this item may take place in executive session (closed to the public pursuant to RCW 42.30.110 (1)(b))

<table>
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<tr>
<th>COMMITTEE ACTION</th>
<th>COUNCIL ACTION</th>
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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, Ken Mann, Satpal Sidhu, Carl Weimer, Rud Browne, Pete Kremen, and Barry Buchanan.

Absent: None.

COMMITTEE DISCUSSION

1. DISCUSSION OF A PROPOSED ORDINANCE ESTABLISHING WHATCOM COUNTY CODE 2.46, CREATING A WHATCOM COUNTY INCARCERATION PREVENTION AND REDUCTION TASK FORCE INTENDED TO PROVIDE RECOMMENDATIONS, OVERSIGHT, AND SPECIFIC TIMEFRAMES ON THE 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 AND MINIMIZES JAIL UTILIZATION BY PRETRIAL DEFENDANTS WHO CAN SAFELY BE RELEASED (AB2015-047K)

Weimer described the work that’s been done on this item up to this point.

Browne stated he proposed additional language, including the first Whereas statement at the top of Council packet page 171.

Brenner asked if the substantial savings mentioned in that Whereas statement is a savings to the County generally speaking, or in criminal justice costs.

Browne stated that if they can divert someone to an appropriate mental health intervention program and away from incarceration, money is saved. The diversion will also hopefully improve the person’s ability to be a contributing member of society in the long term and become a taxpayer.

Brenner stated she can support language that says there will be substantial long-term savings in the criminal justice system. She doesn’t necessarily believe there will be substantial long-term savings. There will be costs in other areas, especially with mental illness. People aren’t being cured of mental illness. They are being maintained and are taking better care of themselves. That is not necessarily substantially less expensive. She is bipolar and knows that mental health maintenance is not less expensive. A working,
productive program will provide adequate care, which is more involved than just giving
people pills.

Kremen stated there won’t be substantial savings. Individuals should be diverted
when they can. It’s a waste of time and money to have these people in the jail system.
However, the beds freed up will be taken up by criminals who need to be in jail. They won’t
necessarily reduce the jail population. Don’t move forward thinking they will save money.
They are going to treat people appropriately and save a lot of anguish and turmoil.
However, they aren’t going to save money. That Whereas statement is overly-optimistic.

Mann stated the Whereas statement is a great addition to the ordinance, and they
will save money. If they are going to treat mental illness and chemical dependency outside
the criminal justice system, it will be a lot cheaper. People will stop cycling through the
system. They will also get federal and State dollars to help pay for their treatment. His
mission for these improvements and changes is because it will save the County money. He
wants that Whereas statement included explicitly in the ordinance.

Browne stated there are three tangible examples of how they would save money.
First, someone diverted from incarceration into a mental health treatment facility can be
housed cheaper. They aren’t dealing with the same security issues. Second, while in a
mental health facility, they are still eligible for federally-funded health benefits. They would
lose that eligibility if they go to jail. Third, a criminal conviction impacts long-term earning
capacity and the ability to find housing and get care. They are diverted from having a
criminal record and can therefore find employment on an equal basis with everyone else.

Brenner stated she does not agree. People who have mental illness and who do not
have family and support can end up with more costs. They need that kind of assistance.
It’s not cheap. It’s not an overall cost savings. It does save costs to the criminal justice
system. Federal dollars are still tax dollars. She’s not comfortable making it sound like
there is an overall savings. Do this because it’s the right way to treat people. It’s about
being humane and giving people what they need to be more productive.

Weimer stated he has no problem with the additional Whereas statement. They’ve
heard from the Health Department that they save $3 for every $1 invested. On the other
hand, he’s not tied to any of the Whereas statements, which are just language to set up the
committee.

Kremen moved to remove the Whereas statement at the top of Council packet page
171, “Whereas, the County’s costs for current criminal justice...in substantial long-term
savings, and.” It is misleading and unrealistic. For every bed that will be vacated, there
will be a criminal to occupy that bed. They have to be realistic. This will cost the County
more money. He’s not saying they shouldn’t spend the money, but go into this realistically.

Mann stated he’s hearing that every time they put someone into treatment, the bed
will be filled by another criminal who deserves to be in jail. He doesn’t know of any
criminals who are roaming the streets right now who aren’t in jail because the beds are
filled. He’s not heard of any booking restrictions. He’s not heard they are prioritizing the
mentally ill over actual criminals.
Browne stated one of the top priorities at the National Association of Counties (NACO) has to do with criminal justice system issues, particularly diversion. The cost to the counties is crippling. NACO is a national body that represents 3,000 counties. It recognizes that programs that divert people out of the criminal justice system are economically good policies to enact because they save money.

Brenner stated they save criminal justice money. There are other costs outside criminal justice. She’s never seen evidence that they will save $3 for every $1 spent. She supports the ordinance. They must let people know there are important, necessary costs to this. It’s misleading to promote a general cost savings.

Sidhu suggested a friendly amendment to keep the Whereas statement, and change language, “Whereas, the County’s costs for current criminal justice...in substantial long term savings to the criminal justice system; and.” Recognize there are cost savings to the criminal justice and incarceration program.

Kremen accepted the friendly amendment.

The motion carried by the following vote:

Ayes:  Brenner, Sidhu, Buchanan and Kremen (4)
Nays:  Browne, Mann, and Weimer (3)

Buchanan stated the dates shown in phase I, II, and II on Council packet page 171 should be extended.

Tyler Schroeder, Executive’s Office, stated those dates are significant. They were recently created as deadlines for Task Force action.

Browne stated the first deadline of October 10, 2015 will be difficult. They have to take applications and appoint the committee.

Weimer stated the October date may have been to get action from the Task Force before the November election on the jail sales and use tax.

Schroeder stated they will also have to go through a process to hire a facilitator for the Task Force. Consider setting a deadline at the first of the year for feedback from the Task Force.

Kremen asked if they are sure they want to hire a full-time position, as is specified in the last bullet point of the ordinance on Council packet page 172. He will support this if the words “full time” are deleted. Make a decision based on actual needs. It’s a significant expenditure for a narrowly focused position.

Browne stated he’s not sure what they’re going to get for $75,000 in terms of the quality and caliber of individual necessary to make a difference.

Weimer stated it is two different things. The $75,000 is for a consultant to get the Task Force going. This ordinances requires a separate position with no attached dollar amount.
Brenner stated don’t get locked into anything at this point. If they end up with a robust Task Force, they may not need a full-time position.

Jack Louws, County Executive, stated he suggests that bullet point just indicate that money will be provided for staff support for the Task Force. If they can work out a deal with the Whatcom Alliance for Health Advancement (WAHA) for this year, and they do an exceptional job, it may be appropriate to continue that in 2016-2017. If it doesn’t work out, they could provide staff internally or hire another consultant to make sure the Task Force stays on task and is provided information it needs.

Anne Deacon, Health Department, stated the Health Department currently has five staff who are dedicated to behavioral health criminal justice system diversion activities. Those staff are well-versed in the national models. They have read all the leading materials and experts. Current programs are designed along those models of care. They have the expertise to do that piece of the work. For every dollar they spend on staff, it is a dollar not spent on programs. They’re very careful about that balance. They began to talk a year ago about developing a supervisor position within the Human Services Division to oversee behavioral health services. She does those tasks right now. They could restructure to provide more emphasis in this area. The Health Department doesn’t have a specialist or expert who works with some of the other issues regarding incarceration prevention and reduction, such as bail changes or legal issues. That would not be appropriate for the Health Department.

Browne moved to amend the last bullet point in the Be It Further Ordained statement on Council packet page 172, “Include as part of the 2016-2017 budget, creation of a full time staff position funds to focus on incarceration....”

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
Nays: None (0)

Sidhu moved to add 90 days to each of the phases in the ordinance: Phase I is due January 10, 2016; Phase II is due November 1, 2016, and; Phase III is due March 2017.

Browne stated that for phase III, they discussed that the project plan would coincide with the plans to construct the new jail. The idea is they would present both plans simultaneously.

Weimer stated the next-to-last bullet point on Council packet page 172 indicates the new crisis triage center will open no later than the new jail.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
Nays: None (0)

Weimer stated there is a scrivener’s error on page 174, section 2.46.050(E), “Representatives from a community action agency, a mental health provider, or substance abuse treatment provider (3).”
Weimer stated he has no idea whether one person from each of those categories would apply. This way, they can choose three, even if they get two applicants from one category.

Deacon stated there is a scrivener’s error in section 2.46.050(A), “Whatcom Alliance for Health Care Access Advancement (WAHA).”

Sidhu stated also change the deadline in the third bullet point of the ordinance, to March 2017.

The Committee concurred.

Deacon stated the Whatcom County Health Department currently has two advisory boards that oversee many criminal justice diversion activities. They are the Behavioral Health Advisory Board, which mostly includes community citizens who oversee a lot of the policy. They have looked at best practices and provided guidance on where the County should focus its energy. The Behavioral Health Revenue Advisory Committee includes County officials and citizens, and it only focuses on the sales tax revenue of $3.7 million per year. They take guidance from the Behavioral Health Advisory Board to make sure the funds are allocated as guided and according to best practices. The staff would want to know how this Task Force fits into the structure. They are already spending all the sales tax dollars every year. If the Task Force decides to recommend a brand new program, she would like to know who decides on the programs. Staff needs guidance once the Task Force is established. Be aware of all the competing and moving parts of the process.

Weimer stated the functions listed in section 2.46.020(B) are almost exactly the same as the Behavioral Health Advisory Committee. Unlike the Behavioral Health Advisory Committee, this Task Force is exclusively focused on incarceration and criminal justice issues.

Browne stated they may need to review the overall committees that the County has. It could be a task of the new Council legislative analyst. Someone who does that can create a matrix of overlapping responsibilities among the committees. Make sure there is no unnecessary overlap. He moved to amend section 2.46.090, “...no later than August 1 June 30th of each year....” He would like to have the annual report sooner than right before the last meeting before the summer break. There will be more opportunity to incorporate discussion about the budget.

Brenner stated just say that a report needs to be submitted annually, without a specific date. Provide the Task Force some flexibility. She suggested a friendly amendment, “...no later than August 1 of each year at least annually, provide a report....”

Browne did not accept the friendly amendment. He would like the information before the budget cycle.

The motion carried by the following vote:

Ayes: Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (6)
Nays: Brenner (1)
Brenner stated she will support the ordinance for now, but keep an open mind about how many members they end up having. There could be overlap with other committees. The bigger a committee gets, the more unwieldy it gets. She understands there are many interests.

Weimer stated he paid attention to comments from Prosecutor McEachran. It’s clear they aren’t trying to set sentencing guidelines or tell the judges how to set bail. They’re just trying to provide resources to help everyone out.

Everett Barton stated approve the Task Force soon so they can present it to the public before the election. Remind the public they intend to divert mental health away from the jail to get more public approval for the vote in November.

Joy Gilfilan, Restorative Community Coalition President, stated she applauds the Council and administration for bringing forward the Task Force ordinance. To create change that is different from the law and justice system, the membership proportion should include 30 percent who are people or family members of people who have incarceration, mental health, and substance abuse issues. Another 30 percent of the membership should be from the new sciences and technologies that can be used for incarceration. Many people are not represented on the Task Force, which looks like the same as what they’ve always done in the past. Really invite new ideas to the table.

_Browne moved_ to recommend Introduction as amended.

The motion carried by the following vote:

_Ayes:_ Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)

_Nays:_ None (0)

**OTHER BUSINESS**

Deacon stated the National Association of Counties (NACO) Stepping Up Initiative is asking counties to pass a resolution by July 31, 2015 to be recognized at their national conference.

Louws stated it’s good for Whatcom County to be on record supporting the NACO initiative. A resolution will come forward to the Council on June 9.

Kremen stated they ought to do both, the resolution and the ordinance.

**ADJOURN**

The meeting adjourned at 3:54 p.m.

The Council approved these minutes on ______________, 2015.

**ATTEST:** WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON
WHATCOM COUNTY COUNCIL
Regular County Council Meeting

May 26, 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, Ken Mann, Satpal Sidhu, Carl Weimer, Rud Browne, Pete Kremen, and Barry Buchanan.

Absent: None.

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced there was an update on the Lummi Island Ferry Lease relating to the Lummi Nation Marina proposal (AB2015-018) in executive session during the Committee of the Whole meeting.

PUBLIC HEARINGS

1. RESOLUTION IN SUPPORT OF AN APPLICATION FOR A WASHINGTON DEPARTMENT OF COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FOR FUNDS TO BE USED FOR CONSTRUCTION OF THE ADDITIONAL MULTI-PURPOSE BUILDING AT THE EAST WHATCOM REGIONAL RESOURCE CENTER (AB2015-165)

(Clerk’s Note: The Community Development Block Grant (CDBG) required handouts were included in the Council’s packet and available to the public at the public hearing.)

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

Cheryl Thompson, Foothills Food Bank Board of Directors President, stated she thanks the Council for the grant for the second building. The food bank hopes to be a tenant in this building. She is excited to have this opportunity. They have very limited space and have been turning away perishable food due to the limited refrigerated and freezer space. They want to serve more healthy perishable foods to people who are unable to provide food for themselves. They have been working to raise funds for a refrigerated storage container. They have exceeded their goal. They would like to have that refrigerated space by September, but they still need more distribution space. Now, they are limited to one distribution time per week, which is on Tuesday mornings. The second building at the
resource center would be well-used. She asked the audience of tonight's meeting to indicate by waving that they support the resolution in lieu of speaking at open session at tonight's meeting. (Clerk's Note: Approximately 20 audience members indicated their support.)

Rebecca Boonstra, East Whatcom Community Council Chair, stated she thanks the Council for everything being done in the East County. It's starting to feel like less of a fight to get attention in east Whatcom county. The residents are very thankful for the resource center. She agrees with the previous speaker. There is a potluck at 6:00 p.m. on June 4th, and councilmembers are invited to attend. She will cook the potluck meal for any councilmember who wants to come.

Hearing no one else, Weimer closed the public hearing.

Kremen moved to approve the resolution.

Brenner stated she thanks the people who are working on issues in East County. The folks all work well together.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
Nays: None (0)

OPEN SESSION

The following people spoke:
- Kathleen Cruz spoke about a recent health care worker strike and lockout.
- Greg Brown spoke about the County's citizen advisory committees.
- Max Perry spoke about Sheriff and law enforcement needs.

CONSENT AGENDA

Browne reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items one and two.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
Nays: None (0)

1. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT FOR BETWEEN WHATCOM COUNTY AND SIEMENS INDUSTRY, INC. FOR THE PURPOSE OF PROVIDING MULTIPLE FIELD PANEL CONTROLLER UPGRADES IN THE AMOUNT OF $73,655.12 (AB2015-170)

2. REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND SAN JUAN CRUISES FOR PASSENGER-ONLY FERRY SERVICE TO LUMMI ISLAND DURING ANNUAL DRY
DOCK, OR ON-CALL AS NEEDED FOR EMERGENCIES, IN THE AMOUNT OF $61,943.00 (AB2015-171)

OTHER ITEMS

1. ORDINANCE AMENDING THE 2015 WHATCOM COUNTY BUDGET, SIXTH REQUEST, IN THE AMOUNT OF $35,783 (AB2015-163)

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, Kremen, and Weimer (7)

Nays: None (0)

2. ORDINANCE AMENDING WHATCOM COUNTY CODE 2.02 TO REVISE COUNTY COUNCIL MEETING RULES (AB2015-082A)

Browne reported for the Finance and Administrative Services Committee and moved to adopt the ordinance.

Brenner stated that providing more efficiency and effectiveness is not the important part of changing the code. The public will not have transparency. There is already a system in place that is working. A professional parliamentarian she found said that the necessity of a second is a myth. If people talk on and on, then a councilmember can call for the question or use another method to end discussion. If a councilmember is so surprised by a motion that there isn’t enough information to vote one way or another, the item can be referred to committee. The system in place works just fine. This will stifle a super minority. It isn’t fair, and it is not in the public interest. They are all elected by everyone in Whatcom County. It’s not fair to the citizens who elected them when they are shut down by not having a second.

Mann stated he is going to vote no on this ordinance, for many of the reasons Councilmember Brenner mentioned. Also, this is not going to change how the council is going to do business. It’s going to come down to the Chair running a meeting and determining when something is relevant. This rule will not have much effect either way.

Brenner stated the biggest effect is that no vote will be in the minutes. People can make up whatever they want regarding their position on a matter, and they will never be held accountable. There should be an allotment for the people to have a voice. The people won’t have a voice if councilmembers don’t vote on motions.

Browne stated a letter was provided to the Council by the registered parliamentarian. She explains that generally the reasons for not wanting motions to be considered and voted on at a particular time can include not having sufficient information, having already discussed and dealt with the matter during committee meetings, or that they are items that are a complete surprise to other members, so they don’t have the preparation to discuss them. The use of a second is normal and customary for almost every meeting body to make sure members come to the meetings well prepared and with a good argument up
front as to why something should be considered. The only thing a person has to do is win
the support of one other member to put the thing to a full vote. This will enable them to
operate more efficiently and more transparently.

Sidhu asked how does Ms. Brenner describe the super minority.

Brenner stated she has been the lone vote on certain things. She resents that this
will make it so it isn’t supposed to be dealt with, and the public isn’t supposed to know
about it. Some of the comments by the professional parliamentarian were insulting. The
memo said it will prevent the waste of Council’s time when they don’t want the motion
discussed and voted upon. If the public feels the Council is wasting its time, they let the
Council know at the ballot box. A business can operate that way if it wants. She doesn’t
begrudge other elected bodies that require a second. The County Council doesn’t require a
second. They don’t need to. There are other ways to end discussion, such as referring to
committee or calling the question, which has been done. There are other systems in place
to take care of this.

Sidhu stated he is too new to have the answers, but he is learning more and more.
No one is being singled out. If the current system works, there is nothing wrong with that.
He didn’t read that the ordinance was about Ms. Brenner. Efficiency is a not a bad thing.

Brenner stated she is notorious for bringing things up. That doesn’t mean something
is wrong with them. If someone brings something up she is opposed to, she still wants to
hear more about it, which can change her mind. They are more likely to make the best
decisions when they hear more points of view. Efficiency has merits, but struggling with the
public’s business to get to the best decision is more important.

The motion carried by the following vote:

Ayes: Browne, Buchanan, Kremen, and Weimer (4)
Nays: Sidhu, Brenner and Mann (3)

3. REQUEST APPROVAL OF THE MASTER COLLECTIVE BARGAINING
AGREEMENT TEAMSTERS’ LOCAL UNION NO. 231 EFFECTIVE MAY 26, 2015
(AB2015-169)

Browne reported for the Finance and Administrative Services Committee and
moved to approve the request.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
Nays: None (0)

4. ORDINANCE AMENDING THE 2015 WHATCOM COUNTY FLOOD CONTROL
ZONE DISTRICT BUDGET, SECOND REQUEST, IN THE AMOUNT OF $400,000
(AB2015-164)

(Council acting as the Whatcom County Flood Control Zone District Board of
Supervisors.)
**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, Kremen, and Weimer (7)
- **Nays:** None (0)

**5. ORDINANCE AMENDING WHATCOM COUNTY CODE 24.13, ILLEGAL DRUG MANUFACTURING OR STORAGE SITES (AB2015-069)**

**Brenner** reported for the Public Works, Health, and Safety Committee and **moved** to adopt the substitute ordinance.

Mann stated they worked on this for a year and a half. It is good, effective language based on science. It’s a good idea for individuals to do the methamphetamine testing themselves. It’s not expensive. The County Health Department will assist people in figuring out what to do and how to interpret the results.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
- **Nays:** None (0)

**INTRODUCTION ITEMS**

Weimer stated Introduction Item six is a substitute ordinance.

**Brenner moved** to accept Introduction Items one through six.

The motion carried by the following vote:

- **Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Kremen, and Weimer (7)
- **Nays:** None (0)


3. **ORDINANCE AUTHORIZING AN INTERFUND LOAN TO CONTINUE FINANCING OF CENTRAL PLAZA BUILDING (AB2015-173) (PROPOSED SCHEDULE – JUNE 9 FINANCE AND ADMINISTRATIVE SERVICES COMMITTEE AND COUNCIL)**

4. **ORDINANCE AUTHORIZING AN INTERFUND LOAN TO CONTINUE FINANCING OF ASSESSOR TREASURER SYSTEM (AB2015-174) (PROPOSED SCHEDULE –**
5. REQUEST FOR A MAJOR ADJUSTMENT, A MAJOR AMENDMENT AND A ONE-YEAR EXTENSION FOR FINAL APPROVAL FOR THE LINCOLN ROAD LONG SUBDIVISION (AB2015-172) (PROPOSED SCHEDULE – JUNE 9 PLANNING AND DEVELOPMENT COMMITTEE AND COUNCIL PUBLIC HEARING)

6. ORDINANCE ESTABLISHING WHATCOM COUNTY CODE 2.46, CREATING A WHATCOM COUNTY INCARCERATION PREVENTION AND REDUCTION TASK FORCE INTENDED TO PROVIDE RECOMMENDATIONS, OVERSIGHT, AND SPECIFIC TIMEFRAMES ON THE 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 AND MINIMIZES JAIL UTILIZATION BY PRETRIAL DEFENDANTS WHO CAN SAFELY BE RELEASED (AB2015-047K) (PROPOSED SCHEDULE TO BE ANNOUNCED)

7. ORDINANCE ESTABLISHING WHATCOM COUNTY CODE 2.118, CREATING A WILDLIFE ADVISORY COMMITTEE (AB2015-175)

This item was withdrawn from the agenda.

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Buchanan reported for the Natural Resources Committee on the discussion regarding a proposed ordinance establishing Whatcom County Code 2.118, creating a Wildlife Advisory Committee (AB2015-175). They will work with staff and the administration to create a good solution for staffing and administrative involvement. The committee will discuss it again in two weeks.

Brenner stated it was brought up that the Council needs to review all its citizen committees. Do that at the same time they are creating another committee. She reported for the Public Works, Health, and Safety Committee on the presentation of Public Works analysis of the Washington State Ferry HIYU (AB2015-156A). The committee also discussed a potential viable option to purchase a ferry for Lummi Island.

Browne stated there is a giant hogweed problem spreading across Canada. The plant can grow to three times the size of an adult. It emits a substance that is toxic. It can cause permanent blindness and chemical burns. It exists in three sites in Whatcom County. The Noxious Weed Board is managing it and keeping it under control.

Buchanan stated he was able to look at a Kulshan Land Trust project on Lafayette Street. The City is building a park there. The homes are on a bluff, and many have solar panels, tight construction, and good insulation. It is a good plan that includes great housing ideas.

Mann stated he served as emcee of the Ski to Sea awards ceremony. He gives credit to the race committee and the 1,100 volunteers. He recognizes the race director, Pete Coy, who is stepping down. It was a great event.
Brenner stated she compliments the County Executive for his presentation at Lummi Island. He gave the best presentation and answered many questions. He did a great job responding to the people.

Kremen stated the remains of a former Blaine High School student, who served in the Army during the Vietnam era, were found. He has been listed as missing in action (MIA) all these years. A proper burial is going to take place. All the preparations and contacts have been made to get a gold star plaque for his survivors. He will make sure the inscription on the Courthouse plaque will be changed to indicate he is no longer shown as MIA. Whatcom County should be very proud of Rainer Sylvester Ramos.

Jack Lowes, County Executive, stated they are working on different ways to change the plaque on the Courthouse memorial wall.

Sidhu stated there are too many advisory committees. This is an ongoing concern that needs careful consideration. It may take some time. It’s worthy to review what has happened over the last fifty years and remedy whatever they can. Engaging citizens in the community is a good thing.

He attended the memorial ceremony in Lynden. His father enlisted in the British army and served for four and half years with the 10th Army, British Army Division, in Persia during a northern Africa conflict.

ADJOURN

The meeting adjourned at 7:50 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
WHATCOM COUNTY COUNCIL
Regular County Council Meeting

July 7, 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, Ken Mann, Satpal Sidhu, Carl Weimer, Pete Kremen, Rud Browne and Barry Buchanan.

Absent: None.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

FLAG SALUTE

ANNOUNCEMENTS

Weimer announced there was a strategy planning discussion and positions to be taken regarding collective bargaining (AB2015-018) in executive session during the Committee of the Whole meeting.

CITIZEN BOARD AND COMMITTEE VACANCIES

Weimer announced the vacancies on the Incarceration Prevention and Reduction Task Force.

MINUTES CONSENT

Kremen moved to approve the Minutes Consent items. The motion was seconded.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

1. REGULAR COUNTY COUNCIL FOR MARCH 17, 2015

2. SPECIAL COMMITTEE OF THE WHOLE FOR MARCH 31, 2015 (9:30 A.M.)
3. COMMITTEE OF THE WHOLE FOR MARCH 31, 2015

4. COMMITTEE OF THE WHOLE FOR APRIL 14, 2015

5. REGULAR COUNTY COUNCIL FOR MAY 12, 2015

6. COMMITTEE OF THE WHOLE FOR MAY 12, 2015

PUBLIC HEARINGS

1. ORDINANCE ORDERING THE CLOSURE OF A PORTION OF MANLEY ROAD TO MOTORIZED VEHICULAR TRAFFIC (AB2015-203)

Weimer opened the public hearing and, hearing no one, closed the public hearing.

Mann moved to adopt the ordinance. The motion was seconded.

Brenner described the location and reason for closure.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

2. ORDINANCE PROPOSING AN AMENDMENT TO THE WHATCOM COUNTY CHARTER TO RESPECT COMMUNITIES AND PROVIDE FOR FAIR ELECTION IN FIVE EQUAL COUNCIL DISTRICTS (AB2015-205)

Browne moved to hold temporarily Public Hearing items three and five to later in the meeting. It will give people time to address the items of interest on the agenda. The motion was seconded.

Brenner stated she is against the motion. They don’t know who came to speak to which item.

Mann stated discuss the items in the order they are scheduled on the agenda.

Browne stated he’s received over 100 emails on the other public hearing items, but no emails on Public Hearing items three and five.

Sidhu stated they could have public hearings on items one, two, and four first. After those are done, hold the hearings on items three and five.

Weimer stated the citizen proponents who brought forward items three and five have asked that those two items be withdrawn.

The motion carried by the following vote:

Ayes: Sidhu, Browne, Buchanan and Kremen (4)

Nays: Mann, Brenner, and Weimer (3)
Weimer opened the public hearing, and the following people spoke:

Jon Mutchler stated he is a Ferndale City Council Member and Charter Review Commissioner. He is a conservative who is proud to be on the Commission. He referenced and read from a letter from Commissioner Todd Donovan to the Council regarding attacks on the Charter Review Commission majority. He agrees with Commissioner Donovan’s comments. He’s a fair and reasonable voice for the Commission. It’s been a fair process. He asks that the Council not send any amendments to the citizens, and let the citizens judge the Commission’s work. Competing amendments don’t give the citizens a fair chance to cast judgment on the Commission. Regarding the five districts, it’s not necessarily wrong to send it to the voters, but wait a year. It could still be done in time for the 2017 election. There’s no reason to send it forward in 2015. It will possibly confuse the voters. Allow the citizens to judge the commission based on its work.

Joseph Garcia stated he is a member of Disabled American Veterans and does not believe in taxation without representation. He is also a business owner in Whatcom County. The concept of one person, one vote is important in democracy. Every councilmember decides on how his tax dollars are spent and on the regulations that affect him, his business, and his family. He should be able to vote for all councilmembers.

Rick Kiene stated he’s more concerned about whether five districts is fair. There shouldn’t be gerrymandering of the five areas. Whatcom County used to have three commissioners, each elected by the people in their district. Don’t gerrymander the districts to make it favor anyone. He is also a veteran. Consider whether all of these ordinances are good for all, or just one district.

Hal Glidden stated the Council represents everyone in the community, and Council actions affect everyone in the County. Don’t restrict him from talking to every councilmember by dividing the county into districts. They need an alternative to the Charter Review Commission proposal during the election, to give the voters a choice.

Dan McShane stated this proposal has nothing to do with the Charter Review Commission proposal for district-only voting. It possibly addresses the concern of a broad representation around the county, which will be better achieved with five districts. There will be five geographic areas that councilmembers will be from. The five district proposal addresses the issue of diversity of perspective.

Iris Maute-Gibson stated the county has diverse landscape, values, and cultures. Honor that diversity by ensuring each voice is heard equally. She supports five districts. District-only voting limits representation to small rural communities and to Bellingham. It demonstrates a lack of trust in the community to make decisions for the county as a whole. The issue of five fair and equal districts is about better representation, not politics. It will decrease factions and gridlock. It will create voting districts to represent the interests of all citizens.

David McClusky submitted a handout (on file) and stated the Commission is essentially the same as a Board of Freeholders. He read from the handout on the authority of County officials to submit alternate proposals. The law does not permit the County Commissioners to submit proposals as alternative to the proposal from the Board of
Freeholders. A former attorney who wrote the Attorney General decision told him that his decision could also apply to Charter amendments.

Jackie Pettit stated the State Constitution gives the Council, as the legislative body, the responsibility to put amendments before the voters. The Charter Review Commission was to be able to do the same thing, but it does not preclude a voter from bringing amendments to the Council. She supports the ordinance. It’s the fairest approach, because it creates communities of interest. The Council is responsible for deciding what goes to the voters.

Lisa McShane submitted a handout (on file) and stated the State Constitution allows the legislative authority to put amendments on the ballot for voters to consider. It doesn’t provide for a charter review commission to do that. As a citizen, she has a right to petition her government at all levels. Therefore, the citizens’ rights supersede the 2015 Charter Review Commission. She supports the ordinance. This amendment did not receive a majority of the votes by the Charter Review Commission. This proposal is more responsive to concerns expressed by the citizens. Every citizen will be represented. This proposal provides better and more fair representation.

Mike Estes stated he supports the ordinance. The State Constitution is clear about how freeholders draft a county charter, not how a review process should work. The Attorney General’s opinion clearly says that the prohibition of competing amendments only applies to charter adoption.

Lorraine Newman stated she has an agricultural background, and supports district-only voting and the existing three districts. District-only voting should remain in effect for at least two election cycles. She doesn’t feel represented by any councilmember now, and would not be represented by redrawn districts.

Kris Halterman stated the citizens elected the commission by district-only voting. ReSources has set up Whatcom County for a lawsuit. Redistricting can only be done using current census data, which is too old to be used in this proposal. The proposal will be challenged in a court of law and thrown out as illegal. The County Council should respect and abide by the current district and allow voters to decide on the issue put forward lawfully by the Charter Review Commission.

Judith Akins stated she supports the proposed ordinance to ensure all voters have an equal voice. They need a fairer system. The proposal allows rural voters and Bellingham voters to have their community of interest. The current system is unfair.

Paula Rotondi stated she supports the proposed ordinance. Three districts no longer represent the county population. Five districts more equally represent Whatcom County.

Brooks Anderson stated she supports the proposed ordinance. Everyone would have representation. Most people here tonight feel they aren’t represented and are attending for their property rights and freedom. However, the current three district system is unfair to people in the cities and the northern part of the county. The three districts were created decades ago. Everyone should have a representative from where they live, or two representatives if an at-large councilmember is from their district.
Lynn Billington stated she supports the proposed ordinance to allow all citizens to provide input.

Stephen Gockley stated he supports the proposed ordinance. The Council has clear legal authority to make this decision. Any districting proposal has legal criteria that governs how they areas are drawn. The three districts now fail all the criteria. The current three districts are more vulnerable to litigation. Let the voters decide.

Tim Douglas stated the three districts are a remnant of the old commissioner system. It’s impossible to divide the county into communities of interest. They will always hear complaints from people who don’t feel represented. Every other charter county has increased their number of districts. Whatcom County is now diverse enough to justify expanding the number of Council districts. He supports the proposed ordinance. The five districts will be very representative and will maintain diversity of opinion. Put this matter on the ballot. He submitted a petition (on file) asking that this issue be put on the ballot.

Edward Ury stated he supports the proposed ordinance to give the voters the right to decide. There are strong arguments on both sides of the district-only voting issue. Given the proportion of the population, they cannot divide the county fairly into three districts. Most folks seem to be against the proposal, because they are concerned about the two at-large seats. Consider the merits of both issues, and let the voters decide.

Keith Fredrickson stated he is an activist regarding election systems. He supports the ordinance to put the issue before the voters, which gives the voters direct control of democracy.

Bob Aegerter stated he supports the proposed ordinance. It’s the fairest proposal of all considered. He supports the comments made by Dan McShane.

Dylan Richardson stated he supports the proposed ordinance. All the people he’s talked to in districts 2 and 3 have overwhelmingly supported the ordinance. He submitted a petition (on file) asking that this issue be put on the ballot.

Richard Kasper stated he supports the proposed ordinance because it gives him three people who represent him.

Bob Burr stated he is multi-partisan. The Charter Review Commission has been a highly partisan process on both sides, since before the election. Give the voters a chance to vote for or against any proposed amendment that has significant public support. The Council should add amendments to the ballot. The five district proposal is more responsive to voters. The Council’s proposed amendments don’t circumvent, but supplement, the Charter Review Commission amendments. At last night’s Charter Review Commission meeting, two of the amendments were changed to address constitutional issues. However, questions remain, and the Council must seek judicial review before putting them on the ballot to save tax payer money from litigation.

Ellen Howard stated she supports the proposed amendments. Whatcom county has a lot of cultural and ethnic diversity, which the three districts don’t represent. Having two commissioners from the same family on the Charter Review Commission defies the concept of diversity, which the proponents of district-only voting claim to want.
Mike Lince stated the current three district system is 40 or 50 years old. He supports the proposed ordinance.

Alice Brown stated she supports the proposed ordinance. It’s time to expand the districts and recognize the larger and more diverse population. With the current system, it’s possible for Bellingham to not be represented. The five districts would meet State law by keeping communities of mutual interest together. Every community would have a voice on the council, and would be in compliance with the State Constitution and federal requirements.

Laurel Felber stated she supports the proposed ordinance because it represents all voters more fairly. She would like to vote for this on the ballot.

Wendy Courtemanche stated she has worked all around the county. She supports the proposed ordinance. It seems rural residents don’t feel represented by countywide voting, but the district-only system disenfranchises Bellingham voters and divides communities with the same interests. Everyone would be represented by the five districts.

Dena Jensen stated she supports the proposed ordinance. Encourage people to participate and be involved. The five district option gives people more choices.

Doug Panek stated he supports the proposed ordinance. It’s more fair and representative. The current three district plan may be illegal, because it divides up communities of interest. He agrees with the comments made by Tim Douglas.

Clarissa Mansfield stated she supports the proposed ordinance. She agrees with the comments made by Judith Akins, Dan McShane, Lisa McShane, and Bob Aegertar.

Ronald Colson stated the district that Maple Falls is in is overwhelmed by Bellingham, under the current three district system. Further restricting their representation by district-only voting is contrary to the democratic process. He supports the proposed ordinance, which will be more representational.

Ronna Loerch submitted and read from a handout (on file) and stated she was disappointed the Charter Review Commission meeting for July 13 was changed to last night, and she could not attend. She supports the proposed ordinance. The current districts don’t represent the population well. Putting Bellingham in all three districts seems like gerrymandering and seems to be contrary to State law. The boundaries on the petition are only draft. This amendment was defeated by the commission, which was unwilling to consider any other proposal. Therefore, it’s coming to the Council, which has the authority to place this on the ballot. The amendment for five districts does not conflict with an amendment for at-large voting.

Louann Chapman stated Whatcom county is the only charter county with three districts, which is outdated. She supports the proposed ordinance. The Charter Review Commission proposed amendment for district-only voting divides the community. Let the voters decide on all amendments. Only the Council has a legal right to place amendments on the ballot for voters.
Rick Hann stated he has lived and worked in all areas of the county. He supports the proposed ordinance, which better represents the diversity of the county than the current three districts. This proposal and a countywide voting system would provide a fair and balanced way to represent county voters.

Jon Shaugnessy stated he supports the proposed ordinance for putting this on the ballot for voters to choose. People from outside the county put money into local elections to influence local democracy. Outside money frequently distorts local democracy.

Alice Hoekema stated she supports the proposed ordinance, so the north county can have its own representative, without including Bellingham. Regardless of how long someone has lived in Whatcom county, they all must be represented.

Daydra Phillips stated she supports the proposed ordinance because it is the fairest way to choose representatives. Voters must have the choice.

Doug Thomas, Bellingham Cold Storage Owner, stated his employees live throughout the county. He is not a registered member of any party. He believes in any solution that is logical, practical, and common sense. The Council should not rush to an irrational judgment spurred by politics. Table this ordinance until they can characterize the merits of the proposal. Neither system is perfect. The elected officials should find the best solution for the citizens.

Delaine Clizbe stated none of the seven councilmembers represent her. Councilmembers Mann and Browne have made it clear before this hearing that they support the five-district proposal, which is a conflict of interest. Councilmember Weimer used to work for ReSources, which has brought forward this proposal, so it is also a conflict of interest. Change is needed in how people are elected. The Commission has taken many hours of public testimony. The County Council has allowed special interest groups to meet with them behind closed doors and out of the public eye. They don’t represent all of Whatcom county. She is against this proposed ordinance and all the other proposals that go against what the Charter Review Commission spent hours proposing.

Tony Larson stated the Charter Review Commission has been characterized in disparaging ways. There were only two tight votes at the Commission, which are tied to the same issue and which are also before the Council tonight. The commissioners are fair minded people who care about the community. The process doesn’t seem to allow people to engage. If these proposed ordinances are about good public policy, there should be time to review them. Eliminate the pre-determined boundaries of district changes, and have it set by appointed bipartisan folks.

John Strong stated he opposes the proposed ordinance, because it confuses the voters. Allow them to vote first on district-only voting. If they want a fair process, create seven districts and eliminate the at-large representatives. Give the people a chance to interact with the council about creating a fair proposal. Also, outside people should not influence local elections.

Wendy Harris stated she supports the proposed ordinance. The ordinance should have been considered when people asked for it during the Charter Review Commission meetings, but the people were ignored. It’s hypocritical that they’re asking for that now.
The Charter Review Commission doesn’t equally represent both sides. The Council is being asked how to represent the citizens who were a minority at the Charter Review Commission. This community as a whole was not fairly represented by the Commission. The Council is being asked to give equal voice to the entire community.

Caroline Anderson stated the Charter Review Commission was democratically elected, and the commissioners did a good job. Anything proposed beyond the Commission’s proposals is confusing for the voters. Respect the work that the Commission did. There is a more orderly process to change things if needed.

Jim Dickinson stated the government is a republic, and there is a long history of districts at all levels to prevent the tyranny of the masses. The Commission was duly elected by the people. The Council is trying to overrule the Commission. The proposed ordinance guarantees control of the entire county by the city of Bellingham. The Supreme Court recently ruled that a state legislature could not overrule a redistricting committee, which this does.

Karl Uppiano stated the Charter Review Commission discussed this issue. However, the sponsors of the amendment were asked to provide more information about transition language, but they didn’t. The Commission wasn’t necessarily opposed to the idea, but simply decided implementation would be a problem.

Linda Twitchell stated her concern is with the process of what they’re considering. She wasn’t aware of these amendments until a few days ago. Take the time to discuss the proposals in committee. There hasn’t been the usual discussion and debate about a proposed ordinance. The people haven’t had a chance to become educated on the issue.

Peggy Uppiano stated she agrees with extending the process. Eliminate the at-large representatives and have just five councilmembers. She agrees with the comments of Delaine Clizbe. The current councilmembers bear some responsibility for the conflict in the community, because of a lack of respect for people with differing opinions. The Council could have filled the vacant councilmember position left by Sam Crawford with a like-minded person, but they didn’t even consider it.

James Gibson stated five districts is more representative than three, given the current population of the county. The Charter Review Commission manners were terrible. The Council is only voting to put this issue on the ballot. The County Charter and the State Constitution give the Council the authority to put amendments on the ballot. With the three district system, there are no communities of interest. The same people who were against district-only voting at the Commission are the same people who are against this proposal. Their original argument was for more representation of communities of special interest, which this would do more than district-only voting.

Cynthia Rogers stated she supports the proposed ordinance. There seems to be a public relations problem about whether elected officials represent citizens or companies. People have the right to speak to their representatives and the right to petition. Listen to the citizens and don’t be influenced by money.

Linda Morell stated she opposes the proposed ordinance. She believes in the Charter Review Commission process. The County Council should not want to disrupt that process.
The Commission has worked long and hard to develop its proposals thoughtfully, with integrity, and with public input. Don’t confuse the matter with counter-proposals, which is not in the best interest of Whatcom county. If there are confusing counter-proposals, the voters will question what they’re doing. Help the citizens make informed decisions. Don’t put these measures on the ballot.

Sam Sefzik stated he is against the proposal. The Charter Review Commission has done a fine job. Let the process happen. The number of districts is arbitrary. There is nothing wrong with the current district boundaries. The issue is with the at-large voting system, not the number of districts. The political minority is suppressed by the at-large system. The issue of district-only voting is the real issue. The current system allows the political majority to tyrannize the minority.

John Marshall stated he supports tabling the proposed ordinance. The current Charter specifies how districts are drawn. He supports the exiting Charter language. He doesn’t know what the five districts will be when the citizens vote on the ballot measure. He’s against that.

Amanda Martin stated she teaches and works with people and businesses around the county. There is a dichotomy between a fixed mindset and a growth mindset. Even if the result is messy, she wants options on the ballot for voters. Educate people who are fearful of change.

Matthew Goggins stated he is against the proposed ordinance. He likes the idea of five districts, but there are issues with using current census data and transition language. He looks forward to the issue being on the ballot next year. He doesn’t support having two at-large members. The Charter Review Commission is the duly elected body that should be proposing amendments. The Commission listened to people for six months. That won’t happen here. He agreed with comments from Dave McCluskey about the Attorney General decision. The Council hasn’t discussed whether it’s appropriate for the County Council to take this action. The Council must not lose its legitimacy. He also agrees with Jon Mutchler’s comments. Let the voters decide if the commissioners are doing their job.

Andrenetta Douglas stated she supports the proposed ordinance. Neither the majority nor the minority should tyrannize the other. She’s worked to gather signatures on the petition, and most people are ignorant about what the Commission is doing. Putting the amendment on the ballot won’t be any more confusing that what the Commission is doing.

Bob Vanweerduizen stated he liked the three commissioner system, because he could get to know them all. The Charter Review commissioners were elected, and now it seems people don’t agree with the work they’ve done for the past several months. He would like to know how the districts would be drawn before voting on them. Table the ordinance.

Ken Bell stated he heard a lot of remarks about how the Commission did its work. They spent a lot of time on this. He and Commissioner Donovan spent a lot of time talking about the measures and giving them due consideration. He’s opposed to this measure because it is divisive, and he doesn’t like separating people into camps. Conservatives and liberals have more in common, but it’s become too personal. They don’t have the means to have a great debate. He prefers to debate ideas based intellectually on their merit so the
best ideas win, and it’s not about who owns the county. The Commission debated diligently. He is opposed to the ordinance.

Janet Simpson stated she appreciates the hard work of the Commission, but it takes more than hard work. It’s not disrespectful to the Commission to put something else on the ballot. It’s part of the process. This vote by the Commission was very close, which means it’s appropriate for another body to consider it. She supports the proposed ordinance.

Todd Donovan stated the Commission had a great process discussing different ideas for representation. Some ideas were better than the ideas that the Commission came up with. The five district plan better represents the communities. A change to a five-district system would make some councilmembers not eligible for their current seats, so there is no conflict of interest. The County will be less vulnerable to lawsuits with this system. With a five-district system, it’s more likely the Council would represent both political perspectives, which is what they’re looking for.

Eileen Sobjack stated she is against the proposed amendments. The Charter Review Commission spent a great amount of time discussing this issue, and voted it down. It seems that the proposal doesn’t address how the five districts are voted in. The County Council shouldn’t propose alternatives after the Commission has put time in on the issues.

Ray Baribeau stated he agrees with the comments of Jon Mutchler. The Charter Review Commission was duly elected, went through its process, and vetted these amendments. Respect that process. If the Council wants to consider amendments for the public, put them on the ballot next year.

Dan Robbins stated the Charter Review Commission was elected by district-only voting. It is the most balanced board of any in the county. Let the Commission process play out. If they truly want to change it, don’t do an end run around the Commission and propose seven districts.

Dave Onkels stated he supports additional districts and fewer at-large positions. The interests of the minorities are best served when there are no at-large positions.

Hearing no one else, Weimer closed the public hearing.

**Mann moved** to adopt the ordinance. The motion was seconded.

Brenner stated she was disappointed in a comment that inferred she accepted campaign money from outside the county, which she does not. She doesn’t accept any campaign donations. She’s disappointed when people say she doesn’t represent them if she doesn’t vote their way. They can’t represent what every single person wants at all times. She trusts the voters. It’s unfortunate some people think the voters will be confused. She’s always supported putting anything on the ballot that people bring forward. She’s never voted against doing that. The Charter allows the Council to put amendments on the ballot. Regardless of how she personally supports the proposals, she will vote to put them on the ballot and give people more choices. It’s not disrespecting the Charter Review Commission. She’s disappointed it’s become a personal issue.
Mann stated there have been a lot of partisan political games behind the scenes. He's been guilty of doing that, too, especially on his Facebook page. He apologizes for doing that. It wasn't right. He will try to do better at being respectful. He commends Mr. Goggins and Mr. Uppiano, who are always respectful, even if they disagree. He works hard to follow their example.

Sidhu stated he hears a lot of people from the second district say they have no representative. As soon as he was appointed, people started accusing his appointment of being an inside job. He has lived in the second district 30 years and has worked with farmers all his life. No one from the Republican Party has ever approached him to talk about their views. People are making wrong assumptions about him. They are better than that. Talk to the people who live in his district and who have worked with him and know him. It's other people's prerogative to shut him out rather than approaching him about working with constituents. He's approached the Tea Party, Charlie Crabtree, and Farm Friends in an attempt to represent his district.

Browne stated he attended several Charter Review Commission meetings. He prefers to spend his time building consensus and dealing with issues than being divisive. His first obligation is to protect democracy. The role of the Council and Commission is to listen to all constituents and seek consensus on possible Charter improvements. These proposed amendments have received hundreds of letters of support. Of those who spoke tonight, about two-thirds support the amendment. They've received a petition with 2,100 signatures of support for the ordinance.

The ordinance does not conflict with the Commission’s proposal. It is silent about district-only voting. The people who serve a district should reside in the district, which this current system ensures. His position on the Council will not be affected by the result of the election. He supports all the Council-proposed ballot measures, so citizens have every opportunity to vote.

Mann stated he will not vote at the election for this five-district proposal. It's an improvement over the current system, but the best combination is five districts that are elected countywide. Don't pit one district against another. Five districts is a better option. Submitting it to the people for a vote is fair. There is little self-interest for most councilmembers.

Sidhu stated the most important amendment and biggest issue was district-only voting. The Commission voted on it early in the process, but should have let people speak and the process play out. Providing options to voters is the wise thing to do. Voters are wiser than the few people who get involved every day. Let the people decide what they want.

Brenner stated people said they don’t know enough about the proposal. This decision doesn’t determine anything. There will be months during which people can learn about the options. More people will get involved now.

Buchanan stated he thanks everyone for participating in the political process. He will support the ordinance to put the decision in the hands of the people. The measure doesn’t compete with district-only voting. It stands on its own merit. He encourages the voters to educate themselves on the ballot measures.
Sidhu stated he agrees there is enough time until November to explain the ballot measures. He is the only person on the Council who is up for election.

Kremen stated this process tonight is democracy in action. He listens to everyone who has spoken. The issue isn’t black or white. He must vote the way he feels most comfortable when explaining his reasons. He can explain the reasons on both sides of this issue. Voting is a sacred privilege. If an election doesn’t produce a result that someone wants, it doesn’t mean they need to change the way they count the vote. The process in Whatcom County isn’t perfect, but it works. The idea of five fair and equal districts sounds good, but it’s not the answer. The current system is time-tested. The Council’s political makeup changes back and forth. The voters will change the political makeup eventually. He doesn’t support the Charter Review Commission proposal, but he respects the results. If they put this proposal on the ballot, he fears that it may pass as well as the district-only proposal. Then they may wind up with district-only voting with more districts. Keep the system the way it is.

Weimer stated he is going to support this ordinance this evening. First, someone challenged that he has a conflict of interest because he used to work at ReSources. That was 12 or 13 years ago. He hasn’t worked with them since then. That claim is nonsense. Second, they heard many people say the system works as is, more than they heard people say everyone controls one side or the other. This seems to be about control. Two years ago, this Council was totally flipped. The at-large seat that everyone is so worried about the city of Bellingham voters controlling hasn’t been very controlled. As he recalls, it was Marlene Dawson, then Seth Fleetwood, then Bill Knutzen, and now it’s Rud Browne. There hasn’t been much control in that system. The reason he will support this ordinance regarding five fair, equal districts is because it represents communities much better than the pie-shaped wedges they have now, which divides Bellingham into three separate areas. Whether voting is countywide or district-only, it will be much fairer to everyone in those five districts. That’s the main reason he will support this.

Brenner stated if people really want to do something to make voting fair, get money out of politics. She’s not talking just about corporations. She’s talking about anyone with money. There should not be so much money, if any at all, in politics. That will make candidates do more work to get their message out to the people. Then people could decide. There’s no panacea, but that would make it better.

Weimer stated they’re ready for the roll call.

Dana Brown-Davis, Clerk of the Council, stated that, just to clarify, this is going to be the substitute version. She asked if that’s correct.

Weimer stated they’re voting on the substitute, blue version of the ordinance. To move these on to the voters, it takes a supermajority of the Council. It takes five votes for these to pass.

The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan and Weimer (6)

**Nays:** Kremen (1)
(The Council took a break from 9:55 p.m. to 10:05 p.m.)

4. ORDINANCE PROPOSING AN AMENDMENT TO THE WHATCOM COUNTY CHARTER TO ELECT CHARTER REVIEW COMMISSION MEMBERS BY COUNTYWIDE VOTE
(AB2015-207)

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

Doug Thomas stated he is opposed to countywide voting, just as he would be opposed to having people in another state vote on his state representatives. People should have intimate representation. People should meet with the representative from their area and have their issues be brought forward in a way the representative can clearly explain those issues. They likely live in that district and can relate.

Jon Mutchler stated this is not necessary. Between the Council and Commission amendments, there may be an overload of amendments. They have ten years until the next commission is elected. They can wait to put it on the ballot another year. There may be an overload of ballot measures on this year’s ballot. Campaigning countywide would be difficult for candidates given the small amount they can raise for a position that lasts nine months. Making it countywide voting would not allow the average person to run. There hasn’t been a problem with the Commission this year. This amendment drastically changes the Commission. Only deep pockets and special interests will be able to run for the Commission.

Bob Burr stated he doesn’t know right now whether or not he favors district-only or countywide voting for the Charter Review Commission. Let him make the decision in November.

Richard Casper stated the ballot to elect the Commissioners was onerous. It was difficult to get information on people across the county. In the interest of the voters, he is opposed to the proposed ordinance.

Karl Uppiano stated he campaigned for a position on the Charter Review Commission. For an average citizen, funding a campaign that covers the entire county is unimaginable and would be tough. This proposal raises the barrier of entry for the average citizen to run a campaign. However, it may be better to ask the citizens. His concern is that, although they trust the voters, there is an issue of ballot fatigue.

Lisa McShane stated she supports the proposed ordinance. They elected the original freeholders by a countywide vote. Elected officials must represent everyone, especially with the County Charter. Despite all the amendments, the ballot is still relatively short. This isn’t a presidential election cycle. She trusts the voters to pay attention. There is a lot of interest in how the county elects people.

Ken Weaver stated he is opposed to the proposed ordinance. It will turn this into a partisan race. The majority of the county residents lives in Bellingham. If it is at-large, they will be only be comprised of people from Bellingham.
Brooks Anderson stated she supports the proposed ordinance. It’s important to do now.

Kris Halterman stated she is against the proposed amendment. Give a voice to the people within their district.

Cliff Langley stated he was on the Charter Review Commission. The Commission was great because of the opportunity to debate. A countywide vote for the commissioners will eliminate a lot of debate and discussion. The people from District 2 have a different view than people in Districts 1 and 3. He is opposed to countywide voting for Charter Review Commission members. The last Commission had fewer conservatives, so that will change. Discussion is necessary to find out what the county needs.

Bob Vanweerdhuizen stated he is for district-only voting. People from urban areas aren’t familiar with how farming works. Farmers put a lot of money into farming in Whatcom county.

Chet Dow stated he is a Charter Review Commissioner. He agrees with comments from Jon Mutchler. This is a bad idea if they believe in having a citizen-reviewed charter every ten years. Countywide elections will turn into major campaigns. He doubts if anyone running for commissioner raised $5,000. To campaign, people running for office needed to go out and talk to people.

Emily Weaver stated it’s important for people to participate in the process. Don’t make the Charter Review Commission elections countywide. She doesn’t know who has proposed this amendment. She would like the Council to disclose whose idea this was. Consider how it will escalate the cost of the lowest level of participation. There is no correlation between spending money and good decisions.

Lorraine Newman stated consider that there have been changes in Whatcom County, such as the population of Bellingham and Western Washington University. Those concentrated blocks of people can tip the races in one direction permanently. The only way to keep it to all the people in Whatcom County is to keep it to those districts.

Joy Gilfilen stated she had to do research on the people running for election to the Commission. The Commission meetings were a little messy, but there was some wisdom that came from the Commission. She is opposed to district-only voting for County councilmembers, but not for the Commission, which should be elected within their district.

Max Perry stated Charter Review Commissioners should be elected district-only. It will be too expensive to run a campaign countywide.

Carole Perry stated the Commission has been a process where they know and could support their local representatives. She supports the comments of the first speaker on this amendment. The commissioners were local people. She is opposed to an election countywide.

Hearing no one else, Weimer closed the public hearing.

There was no motion to adopt this ordinance.
Brenner stated that if there has been a motion, she would have voted to put it on the ballot, but she is opposed to countywide voting for commissioners.

(Clerk’s Note: No councilmember made a motion to adopt the ordinance.)

Weimer stated the ordinance dies for lack of a motion.

The Council discussed whether or not to withdraw the last two public hearing items or continue with the hearings.

Browne stated the citizen proponents of the last two public hearing items have asked that the Council withdraw them from the agenda.

Kremen stated that even though the proponents have asked privately that they be withdrawn, the Council has put these public hearing items on the agenda. It’s the right thing to do to see if anyone in the audience wants to speak to them.

**Browne moved** to put Public Hearing Items 3 and 5 back on the agenda.

**The Council concurred.**

**Weimer moved** to clarify that the Council will not forward Public Hearing Item 4 to the voters. The motion was seconded.

Mann stated he was prepared to vote for this item, but was persuaded by testimony to change his mind. He generally supports countywide voting. It would be costly and complex if all the voters had to choose the top 15. He sees the sense of leaving it the way it is.

Kremen stated the Charter Review commissioners have one charge to serve the constituents for several months. There’s nothing wrong with the system in place. If he had to make a change, he would vote to require that anything placed on the ballot to change the Charter, which is the County’s constitution, has to be approved by a supermajority of the Commission.

Sidhu stated he agrees with Councilmember Kremen on district-only voting for the Commission and requiring a supermajority.

Browne stated the supermajority requirement should apply equally to the Commission and the Council. Both bodies should be governed by the same set of rules.

Weimer stated he supports the motion because he likes district-only voting when the districts are designed well to represent like communities and minority communities.

The motion carried by the following vote:

**Ayes:** Kremen, Brenner, Mann, Sidhu, Browne, Buchanan and Weimer (7)

**Nays:** None (0)
PUBLIC HEARINGS

3. ORDINANCE PROPOSING AN AMENDMENT TO THE WHATCOM COUNTY CHARTER TO AFFIRM THE LEGISLATIVE AUTHORITY GRANTED TO THE COUNTY COUNCIL BY THE WASHINGTON STATE CONSTITUTION (AB2015-206)

Weimer opened the public hearing, and the following person spoke:

Dan McShane stated he asked for this to be withdrawn, because the Council already has the authority to propose Charter amendments per the State Constitution. The language initially put forward was modified from what he initially proposed, which made the point moot.

Hearing no one else, Weimer closed the public hearing.

Kremen moved to adopt the ordinance and stated his motion is just to get the ordinance on the table and vote it down. The motion was seconded.

The motion failed by the following vote:
Ayes: Brenner (1)
Nays: Kremen, Mann, Sidhu, Browne, Buchanan and Weimer (6)

5. ORDINANCE PROPOSING AN AMENDMENT TO THE WHATCOM COUNTY CHARTER TO ALIGN REQUIREMENTS FOR AMENDING THE WHATCOM COUNTY CHARTER BY CITIZEN INITIATIVE WITH WASHINGTON STATE LAW (AB2015-208)

Weimer stated the citizen proponent of this ordinance has asked that this item be withdrawn, because she didn’t realize the Charter Review Commission has already proposed a similar Charter amendment.

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

Jon Mutchler stated this was an example in which the commissioners on both sides came together. He is against requiring a supermajority of the commission to propose Charter amendments. It’s appropriate for the Council, which meets all the time. The commission meets only every ten years.

Dan McShane stated it was recognized that the Commission recommends lowering the threshold. The County legal council said if both were on the ballot and passed, the more liberal amendment of eight percent would prevail.

Bob Burr stated he is in favor of the ordinance.

Charles Law stated he agrees with the ability to put more amendments on the ballot. Eight percent has more representation in the parties.
Kris Halterman stated a lower threshold means less need for a County Council. The County will be run by initiative. Passing an initiative should be a hurdle. She is opposed to the ordinance.

Todd Donovan stated there are two Commission-proposed amendments about the initiative process. Adding a third ballot measure would be a bit confusing. There are two changes already to make it closer to State standards. Going from a threshold of 20 percent to eight percent is a rapid change. He is opposed to the ordinance.

Wendy Harris stated she would like this item to be held to the next meeting if there is still time to get it on the ballot. She’s in favor of the lowest threshold. It’s a lot of work to get eight percent. It’s not too radical to go from 15 percent to eight percent.

Ken Bell stated the Commission had a lot of debate on this issue, and came up with near consensus. They took a lot of time debating the correct threshold. If it were as low as eight percent, there would constantly be two warring factions putting competing measures on the ballots.

Linda Twitchell stated eight percent would be 8,075, according to the last gubernatorial election.

Hearing no one else, Weimer closed the public hearing.

**Mann moved** to adopt the ordinance. The motion was seconded.

Kremen stated he believes in the initiative process, but it should be a high bar. Governing by initiative is not a good way of governing. There is no compromise or consideration for an opposing view. It’s all or nothing. That’s not the way government was meant to be. Don’t create a situation where it becomes easier for the legislative body to punt difficult decisions. He’s seen that happen at the State level. A high percentage of those who vote on an initiative have not read the initiative and, if they have, don’t understand it. It’s a poor way to govern.

Mann stated he agrees with Councilmember Kremen. He moved it forward to vote it down.

Brenner stated she doesn’t like the argument that people aren’t going to read it or understand it. She’s not sure how she would vote on this ballot measure. This makes it more accessible for a real citizen initiative, not an initiative from a big group or political party.

The motion failed by the following vote:

**Ayes:** Brenner (1)

**Nays:** Kremen, Mann, Sidhu, Browne, Buchanan and Weimer (6)

Debbie Adelstein, County Auditor, stated Section 8.20 describes the Charter amendment general provisions, and says they may be proposed by the Commission, the Council, or the public.
OPEN SESSION

The following people spoke:

- Don Buchanan spoke on the issue of restrictions on Glen Echo Gardens.
- Cynthia Ripke-Kutsegowicz submitted handouts (on file) and spoke about her value system.
- Ray Baribeau spoke about the revised jail use facility agreement and the allowed uses of the sales tax.
- Charles Law submitted a handout (on file) and spoke about working with the Salish people and about amending the Charter preamble.
- Wendy Harris spoke about the proposed ordinance to create the Wildlife Advisory Committee.
- Joy Gilfilen spoke about removing the .02 percent sales tax from the ballot.
- Bob Aegerter spoke about the proposed ordinance to create the Wildlife Advisory Committee.
- Amanda Martin spoke about funding for services for at-risk youth.
- Irene Morgan, Restorative Community Coalition, spoke about the proposed new jail and providing jail alternatives.
- Carole Perry spoke about the jail use facility agreement.

CONSENT AGENDA

Browne reported for the Finance and Administrative Services Committee and moved to approve Consent Agenda items three through five. Deal with the other items separately.

The motion 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 APPROVE THE COLLECTIVE BARGAINING AGREEMENT BETWEEN WHATCOM COUNTY AND PROFESSIONAL AND TECHNICAL EMPLOYEES, LOCAL 17, FOR THE PERIOD JULY 7, 2015, THROUGH DECEMBER 31, 2016 (AB2015-210)

Browne reported for the Finance and Administrative Services Committee and moved to approve the request. The motion was seconded.

The motion carried by the following vote:

Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

Nays: None (0)

2. REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO APPROVE THE COLLECTIVE BARGAINING AGREEMENT BETWEEN WHATCOM COUNTY AND WHATCOM COUNTY DEPUTY SHERIFF’S GUILD BARGAINING UNIT FOR THE PERIOD JULY 7, 2015, THROUGH DECEMBER 31, 2016 (AB2015-211)

Browne reported for the Finance and Administrative Services Committee and moved to approve the request. The motion was seconded.
The motion carried by the following vote:

**Ayes:** Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)

**Nays:** None (0)

3. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT AMENDMENT BETWEEN WHATCOM COUNTY AND GERALDINE COLEMAN, SCOTT MAWSON AND MARGARET MAWSON TO PROVIDE CHILDREN’S LEGAL REPRESENTATION IN DEPENDENCY ACTIONS, IN THE AMOUNT OF $1,589.75 PER MONTH, FOR A TOTAL AMENDED CONTRACT IN THE AMOUNT OF $7,968.75 PER MONTH (AB2015-212)**

4. **REQUEST AUTHORIZATION FOR THE COUNTY EXECUTIVE TO ENTER INTO A CONTRACT BETWEEN WHATCOM COUNTY AND AHBL, INC. FOR CONSULTANT SERVICES FOR THE INTEGRATION OF LOW IMPACT DEVELOPMENT COMPONENTS INTO THE WHATCOM COUNTY CODE AND DEVELOPMENT STANDARDS TO MEET NPDES PHASE II REQUIREMENTS, IN THE AMOUNT OF $75,000 (AB2015-213)**

5. **REQUEST APPROVAL FOR THE COUNTY EXECUTIVE TO AWARD BID #15-40 FOR THE SUPPLY OF TWO 4WD SMALL SPORT UTILITY VEHICLES TO THE LOWEST BIDDER, BLADE CHEVROLET, IN THE AMOUNT OF $53,481.82 (AB2015-214)**

**OTHER ITEMS**

1. **ORDINANCE AMENDING WHATCOM COUNTY CODE TITLE 3 TO CHANGE THE EXPIRATION DATE OF THE SALES AND USE TAX FOR PUBLIC FACILITIES IN RURAL COUNTIES (AB2015-204)**

   *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)

2. **APPROVAL OF A REVISED JAIL FACILITY USE AGREEMENT RESULTING FROM PREVIOUS COUNCIL ACTION THROUGH RESOLUTION 2015-024 (AB2015-047N)**

   *Browne* reported for the Finance and Administrative Services Committee and moved to approve the agreement.

   Mann stated it’s silly that people think violent criminals will be turned loose if the councilmembers vote against this item. He’s voting against it because it’s a $100 million project that is not the most efficient use of their resources. The consultants failed the County, and did not provide enough options or analysis to reduce the incarcerated
population. They could have a much better project. There isn’t a chance this will be passed on the ballot, and he worries about the impact of that failed ballot measure.

Brenner stated she supports the agreement. This tax cannot be used for prevention services. The Council has committed to and begun a robust diversion program. It’s not silly. She’s heard people suggest patience for years. The current jail conditions are dangerous and extremely inhumane for the inmates and people who work there. This is overdue. There has been a good compromise with a strong emphasis on diversion programs. The existing jail will cause real problems if they don’t move to a better facility. The new jail will have medical and mental health services, which will provide people with much more support so that they will become stabilized.

The motion carried by the following vote:
Ayes: Brenner, Sidhu, Browne and Kremen (4)
Nays: Mann, Buchanan and Weimer (3)

3. ORDINANCE ESTABLISHING WHATCOM COUNTY CODE 2.118, CREATING A WILDLIFE ADVISORY COMMITTEE (AB2015-175)

Buchanan moved to adopt the ordinance. The motion was seconded.

The motion carried by the following vote:
Ayes: Brenner, Mann, Sidhu, Browne, Buchanan, Weimer and Kremen (7)
Nays: None (0)

INTRODUCTION ITEMS

Brenner moved to accept Introduction Items one through four. The motion was seconded.

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, EIGHTH REQUEST, IN THE AMOUNT OF $137,713 (AB2015-215)

2. 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 (AB2015-216)

3. ORDINANCE PROPOSING AN AMENDMENT TO THE WHATCOM COUNTY CHARTER TO ENSURE THAT SEVEN WHATCOM COUNTY COUNCIL MEMBERS, INCLUDING COUNCIL MEMBERS IN EACH VOTER’S OWN DISTRICT, WILL BE ELECTED BY MAJORITY VOTE OF THE REGISTERED VOTERS OF WHATCOM COUNTY (AB2015-217)
4. 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 (AB2015-218)

COMMITTEE REPORTS, OTHER ITEMS, AND COUNCILMEMBER UPDATES

Brenner reported for the Public Works, Health, and Safety Committee on the presentation on Orthomolecular Medicine: Effective Treatment for Mentally Ill Inmates (AB2015-209).

Browne reported on Whatcom Volunteer Center.

ADJOURN

The meeting adjourned at 11:46 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
# WHATCOM COUNTY COUNCIL AGENDA BILL

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**TITLE OF DOCUMENT:**
Res requesting spreadsheet of various Jail Facility Use Agreement proposals

**ATTACHMENTS:**

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<th>( ) Yes ( ) NO</th>
<th>Should Clerk schedule a hearing?</th>
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<td>( ) Yes ( ) NO</td>
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**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Resolution requesting the County Executive to develop spreadsheet models to make it easier for the Whatcom County Council, the City of Bellingham and other interested parties to understand the impact of the various proposals related to a new long term Jail Facility Use Agreement (JFUA)

**COMMITTEE ACTION:**

**COUNCIL ACTION:**
9/29/2015: 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.
PROPOSED BY: BROWNE
INTRODUCTION DATE: September 29, 2015

RESOLUTION NO. ______

REQUESTING THE COUNTY EXECUTIVE TO DEVELOP SPREADSHEET MODELS TO MAKE IT EASIER FOR THE WHATCOM COUNTY COUNCIL, THE CITY OF BELLINGHAM AND OTHER INTERESTED PARTIES TO UNDERSTAND THE IMPACT OF THE VARIOUS PROPOSALS RELATED TO A NEW LONG TERM JAIL FACILITY USE AGREEMENT (JFUA)

WHEREAS, Whatcom County, the City of Bellingham and other interested parties (the “Parties”) have been working to negotiate a new long term Jail Facility use Agreement.

WHEREAS, The City of Bellingham and Whatcom County have submitted several proposals to each other over the last several months.

WHEREAS, The Whatcom County Council wishes to fully evaluate the City of Bellingham’s proposal but feels it does not currently have the necessary models to identify the fiscal impact to the County.

WHEREAS, The Whatcom County Council wishes to give due consideration to the various stakeholders in the community so as to objectively establish what the size and nature of the first phase of the new jail should.

WHEREAS, It is common within the private sector for parties involved in large complex negotiations to jointly develop modelling tools such as spreadsheets which the parties use to collaboratively reach consensus on the critical key assumptions and the impact of various proposals.

NOW, THEREFORE, BE IT RESOLVED, that the Whatcom County Council requests the County Executive to work with County staff and ideally also the City of Bellingham to develop the following;

1. **Current Jail utilization model.** This model should include all available factors necessary to determine what Whatcom County and each of the cities’ current utilization of the jail is based on actual historical usage data. The goal of the model will be achieved if each law enforcement department can confirm to their respective Councils that they agree with way the current jail utilization numbers are being allocated between the jurisdictions.

2. **Jail financing model.** This model should individually identify all the County’s current and proposed financial needs for jail construction and operating costs over the next 30 years. The model should identify current and expected future sources of funding for the next 30 years. The proposed contributions from each of the cities should be identified individually and ideally should correlate their expected future utilization rates. The goal of the model will be achieved if a user can alter the allocation of various revenue and costs between the parties and see the cumulative effect on County and individual cities.
3. Proposed new jail size model. This model should incorporate the data and assumptions of pages 7 thru 12 of the DLR Group's Pre-Design report (attached) that were used to arrive at the current recommended phase one size of 521 beds. The purpose is to use objective calculations rather than subjective assumptions to establish consensus about what the right size for phase one of the new jail should be. The goal of the model will be achieved if (a) individual users can enable or disable various factors and see the impact reflected in the size of the jail recommended by the model, and (b) the various stakeholders are able to use the model to reach an objective agreement as to what the size of the jail should be. Specifically the model should allow a user to experiment with the impact of various "what if scenarios" such as:

i. the factors identified on the "Unknown Influences on Jail Bed Need" page of the DLR Group's report.
ii. the full retention, partial retention and elimination of the existing minimum security facility at Irongate.
iii. the possible future conversion of various frequent offences currently punishable by imprisonment to non-imprisonment offences, such as failure to appear, driving while license suspended in the first degree etc.
iv. the expanded use of alternatives to incarceration such as ankle bracelets, drug courts etc.
v. plus allows for 10 additional user defined variables to be incorporated.

APPROVED this_____ day of__________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL

Clerk of the Council WHATCOM COUNTY, WASHINGTON

Council Chair

APPROVED AS TO FORM:

__________________________
Civil Deputy Prosecutor
Jail Capacity Projections

Jail projections are the building block of any new jail facility. Everything in a jail is based on the number of beds support functions must serve, and therefore, a driving factor in new facility needs.

Projections for Whatcom County are based on historical information gathered from the County.

County Population and Jail Beds

Whatcom County has grown from a population of 166,814 in 2000 to about 202,262 in 2012. This represents less than 2% annual growth. The County has adopted the medium projection method (from Washington’s Office of Financial Management or OFM) to base future needs. The anticipated County population in 2022 (the jail bed capacity projection horizon) will be 244,268.

Since 2000, the jail bed need has grown at roughly the same rate as the County population. There was a large spike in jail bed use when the Work Center came online, but this was expected as pent-up demand was being addressed - warrants were being served, and the judiciary and other officials felt that jail was once again a viable sanction for lower levels of criminal behavior.

Once the suppressed demand was met, the jail population stabilized while those inmates who were part of the demand were serving their sentences. Once the suppressed demand was met, the jail population stabilized and inmates were able to serve their sentences. Once this large group of offenders worked their way through the criminal justice system, the jail population temporarily stabilized at a somewhat lower level. Current data reflects the jail population is on an upward trend at approximately the same rate as the historic trend. 2012 is the latest full year of data available. 2013 year to date data indicates this upward trend is continuing.

Jail Capacity

Whatcom County Jail had an initial capacity of 148 beds. Soon after opening, this number proved insufficient for demand. Over time, the jail added beds by retrofitting and converting storage rooms and alternative spaces to bed space. This increased the capacity incrementally from 1984-2006 to about 260 beds. In 2007 the Work Center opened and provided 150 minimum security beds.

Historic Populations

Historic Jail Population

with trendline and capacity limits

Whatcom County
Jail Demographics

Whatcom County's jail system is the only adult detention option in the county. In addition, the County provides detention services for all of the local municipalities, the Lummi Nation and Nooksack tribe, and State agencies such as Washington State Patrol and the Department of Corrections. There is an increased proportion of Native American inmates, primarily due to the Lummi Nation and Nooksack tribe contracting with Whatcom County for the majority of their inmates.

Male inmates make up the majority of the jail population, accounting for 82%. Females, while definitely in the minority, are a growing population. This reflects a nationwide trend. Between 2000 and 2012, the percentage of female offenders in Jails throughout the United States grew by almost 40%. Planning for new facilities must take into account this growing population. (Source, Jail Inmates at Midyear 2012-Statistics Tables, May 2013 Bureau of Justice Statistics)

Inmates have been detained in Whatcom County for a variety of reasons. These range from public order offenses to violent crimes. The chart below represents a one-day snapshot of those in-custody:

- Public Order - weapons, drunk driving, court offenses, commercialized vice, morals and decency offenses, liquor law violations, and other public-order offenses.
- Violent - murder, manslaughter, rape, other sexual assault, robbery, assault, and other violent crimes.
- Property - burglary, larceny, motor vehicle theft, fraud, and other property crimes.
- Drug - Controlled substances, trafficking, and related drug crimes.
- Other/Unspecified - juvenile and other unspecified offense categories.

Along with charge type as a factor in the make-up of the jail population is the adjudication status of each inmate. Pretrial inmates are those people who have been charged with a crime, detained, and are unable to obtain release while awaiting trial. These inmates are unable to "make bail" or they have been denied the option of bail. The ratio of pretrial to sentenced inmates is higher than anticipated with expectations being more in the range of a 60% - 40% split. There are most likely several factors at work including: legal strategy on the part of the defense, congestion in the court docket (though Whatcom County is anticipating a new judge being added in the near future), and more sentenced offenders participating in alternatives to incarceration - especially given the overcrowded population of the existing detention option.
Inmate classification is a complicated system that can be quite different from system to system. As shown, from a one day snapshot in 2012, about 10% of the jail population is in maximum custody or segregation, this is in-line with information from the National Institute of Corrections. The large minimum and alternatives population (over 50% of the population) is most like attributed to the extensive use of alternatives Whatcom County runs as well as the fact that the Work Center is, essentially, 150 beds of minimum security.

The average length of stay (ALOS) for the Whatcom County Jail in 2012 was 22 days. In 1986, the ALOS was approximately 9 days. This represents an increase of over 144% in the ALOS since, essentially, the jail opened. This change appears to be caused by a combination of factors. A primary issue has been the increases in the percentages of pre-trial felons held in the facility. This is an indicator of a shift in jail population from primarily low level misdemeanant offenders who receive just a few days in jail to more serious felony offenders who will tend to be sentenced to longer amounts of jail time. Additional factors have been some changes in the good time calculation, elimination of an “early release” program that was determined by the local Judges to be outside of their authority, and changes in State sentencing laws that keep inmates who would previously been sent to prison in local County jails.

It should also be noted that although the ALOS has increased over time, consistently over half of all offenders are released from custody within 72 hours. This illustrates the point that ALOS can be skewed by having a few number of offenders stay in custody for more than 6-8 months. We would also note that only about 5-6% of offenders stay less than 4 hours.
Projected Average Daily Population (ADP)

A number of methodologies were applied to the raw data provided by the County to project potential ADP in the year 2026. Three of these methodologies were ultimately used to determine a base projection.

» Method I - Jail growth projected at the County growth rate (linear regression)
» Method II - Jail growth projected at the County growth rate (2000-2012)
» Method III - Jail growth projected at the jail growth rate (2006-2012)

These methods derived possible ADPs of 462 to 506 inmates for the year 2026. However, in addition to the ADP, a fully functional jail requires a number of beds be vacant. The County, in line with National Institute of Corrections recommendations, chose a 20% peaking/classification factor. This factor aids in the management of situations including:

» Peaks in population due to public gatherings (such as college events, holidays, etc)
» Beds being offline due to maintenance
» Beds of specific custody levels needed as new bookings are classified.
» Management of smaller populations that need to be segregated (females, protective custody).

Calculation of the peaking/classification factor to the bed need projections increases the range to 554-607.

In addition to the ADP projection and the peaking/classification factor, there is an estimating range applied to each method. This is a 10% range lower and higher than the ADP plus peaking/classification calculation. This allows for slight changes in legislature, policy, as well as design flexibility.
Unknown Influences on Jail Bed Need

The calculations for future bed need are based on statistical probability. Other factors are unpredictable and can have a great influence on jail bed need. These factors, like the ones hypothesized in the charts below, are difficult to predict, let alone quantify what a statistical influence on jail bed number might be. Therefore, this study was tasked with the following:

- Identifying potential legislative, policy, and alternatives programs that might influence jail bed need in the future.
- Identifying the effect of the potential influences on future jail bed need.
- Recommending adjustments to the calculated jail bed need based on the potential future influences.

The team developed a number of legislative factors and identified if the factor would be a positive or negative influence on jail beds in the future. These factors are "what-if" scenarios, of which some will be implemented and some and some of which are unlikely to occur except in extreme circumstances. Of the legislative changes examined, only 2 were determined to have a neutral or reducing impact on jail populations. The most extreme examples considered were patterns after the recent changes in the State of California, where, due to a Court decision, thousands of state prison inmates are being moved back into the County jail systems for a period of 2-4 years. Washington has experienced less sweeping examples of offender population transfers on a number of occasions, ranging from the 1985 Sentence Reform Act to 2013 changes in sentencing for some drug offenders, resulting in additional offenders being sentenced to jail rather than prison. In each case, jail populations have increased to a varying degree.

In addition, the team also developed a list of possible alternative programs that might be implemented in a detention system. Most, as it turns out, have already been in-place in Whatcom County for some time. Each was as robust as space and budget allowed. What this means to the effect on jail bed need for Whatcom County is that the majority of the jail population who are eligible for alternative programs are already benefiting from that privilege and that no other significant segment of the jail population would be available for alternative programming.
The team next focused on historical factors that have impacted the number of jail beds. While the chart does not include an exhaustive list of policy and legislative changes since the jail opened, it does include a balanced perspective. The current Whatcom County Jail was at capacity by 1989. In 1992 booking restrictions were imposed and further restrictions were imposed just a year later. These restrictions are policies put in place to help curtail the number of intakes into the jail.

During the era of booking restrictions, DUI laws changed from a .10 BAC to a .08 BAC in 1996. The next year, the jail population actually decreased. It is not clear what caused the reduction, though it is interesting that where an increase was anticipated, a decrease actually occurred.

This example is to illustrate that there are many legislative and policy changes that are implemented over the years, yet the jail population continues to grow at nearly the same rate as the County over time.

**Final Bed Count**

Throughout the Bed Need Analysis, the County was very flexible as to how many beds should be built. As can be seen from the next chapter, physical design considerations also play a role in the number of beds constructed. For this reason, the initial bed capacity the County determined would be appropriate is illustrated below.

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<td>Double Cells</td>
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<td><strong>Phase II Total Beds</strong></td>
<td><strong>128</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Total Beds</strong></td>
<td><strong>849</strong></td>
<td></td>
</tr>
</tbody>
</table>

The team weighed the projections, design considerations, project costs, and classifications needs to develop a bed construction strategy that will allow the County to incrementally increase the number of beds over time as they may be needed.

**Policy & Legislative Changes**

- Washington Sentencing Reform Act (SRA)
- Current Main Jail Opens
- Stricter DV Laws
- Mandatory for Driving Suspended/Revoked
- WC Drug Court Begins
- Sex Offender Registration Begins
- Booking Restrictions
- Jail Alts Expand
- Booking Restrictions Tighten
- 3rd Strike Law
- Liberalizing of the Invol. MH Detainment Laws
- Liberalizing of the Invol. MH Detainment Laws
- Jail Starts Early Release Due to Overcrowding
- Liberalizing of the Invol. MH Detainment Laws
- Liberalizing of the Invol. MH Detainment Laws
- Creation of WAHA
- DOC's Swift & Certain Program
- DOC Eliminates Supervision of 59,000 Offenders Statewide
- Standard Good Time Rate to 1/4th
- 13% Reduction in Involuntary MH Inpatient Beds
- Interim Work Center Opens
- Impact of Gang Activity Starts to Grow
- DJR Reduction from .10 to .08
- Jail Starts Early Release Due to Overcrowding
- MH Chem Dep. Tax Fund Begins
- North Sound Eval. & Tx Shuts Down
- Misdemeanor Bail Sched Updated
- DOC's Swift & Certain Program

Green dots relate to the factor adjacent to it as well as the time line above. Blue text indicates items specifically discussed with Whatcom County Council.
# WHATCOM COUNTY COUNCIL AGENDA BILL

<table>
<thead>
<tr>
<th>CLEARANCES</th>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
<th>Agenda Date</th>
<th>Assigned to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Originator:</td>
<td></td>
<td></td>
<td>10/6/2015</td>
<td></td>
<td></td>
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<tr>
<td>Division Head:</td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Dept. Head:</td>
<td></td>
<td>10.06.15</td>
<td></td>
<td>10/13/2015</td>
<td>Council</td>
</tr>
<tr>
<td>Prosecutor:</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Purchasing/Budget:</td>
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<td></td>
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<tr>
<td>Executive:</td>
<td></td>
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</tbody>
</table>

## TITLE OF DOCUMENT:
Resolution identifying 2016 & 2017 salaries & benefits for County Councilmembers

## 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>
</tr>
</thead>
<tbody>
<tr>
<td>SEPA review completed?</td>
<td>( ) Yes</td>
<td>( ) NO</td>
<td>Requested Date:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:
(If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
Resolution identifying 2016 and 2017 salaries and benefits for Whatcom County Councilmembers

## COMMITTEE ACTION:

## COUNCIL ACTION:

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

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

IDENTIFYING 2016 AND 2017 SALARIES AND BENEFITS
FOR WHATCOM COUNTY COUNCILMEMBERS

WHEREAS, in early 2015 the Whatcom County Commission on Salaries for Elected Officials held several meetings to complete the task of setting salaries for Whatcom County elected officials for the years 2016 and 2017; and

WHEREAS, on April 16, 2015, the Commission submitted an elected officials salary schedule to the county for the years 2016 and 2017 (attached Exhibit A); and

WHEREAS, it is necessary to formally identify salaries and benefits for the legislative branch of county government for historical purposes.

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the compensation to be paid to individual Whatcom County Councilmembers for the years 2016 and 2017 shall be as indicated below:

For the year 2016 the salary shall be $30,000 per councilmember.

For the year 2015, the salary shall be $30,660 per councilmember.

BE IT FURTHER RESOLVED that councilmembers who meet eligibility criteria will be eligible for health and welfare benefits as outlined in the unrepresented salary resolution for the applicable year.

BE IT FINALLY RESOLVED that the terms set forth in this resolution shall become effective as of January 1, 2016.

APPROVED this____day of____________, 2015.

ATTEST: WHATCOM COUNTY COUNCIL

Dana Brown-Davis, Clerk of the Council WHATCOM COUNTY, WASHINGTON

Carl Weimer, Council Chair

APPROVED as to form:

Civil Deputy Prosecuting Attorney
EXHIBIT A

To: Whatcom County Council
From: Whatcom County Commission on Salaries for Elected Officials
Subject: Elected Official Salary Schedule for 2016 and 2017
Date: April 16, 2015

Starting in January 2015, the Whatcom County Commission on Salaries for Elected Officials has met multiple times in order to complete its task of setting the 2016 and 2017 salaries for elected officials.

The Commission has used information from comparable jurisdictions, considered the unique challenges of some of our local offices, and considered written and oral testimony from elected officials and the general public. Members of the Commission have actively participated in the process and shared their unique perspective in the discussions that led to the Commission’s salary placements.

Attached please find the Salary Commission’s salary placements for Whatcom County elected officials for 2016 and 2017. These salary placements are forwarded to the Council with a unanimous vote from the nine remaining members of the Commission. Commission member Jesse Berg moved out of District 3 and resigned from the Commission.

It has been an honor to be selected and serve on the Salary Commission for Whatcom County.

Allan Jensen, Commission Chairman
(Organized Labor)

Robert Carmichael – Legal Profession

Brian Lydiard – Business

Thom Fischer – District #1

Mike Arbiter – District #2

Peter Schroeder – District #3

George Plucinski – District #2

Kara Turner – Personnel Management

Kristi Birkeland – District #1

262
Whatcom County Commission on Salaries for Elected Officials

Salary Placements
April 16, 2015

<table>
<thead>
<tr>
<th>Position</th>
<th>Current Salary 2015</th>
<th>2016</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessor</td>
<td>$101,148</td>
<td>• 1% COLA</td>
<td>• 2.2% COLA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Adjustment: $0</td>
<td>• Adjustment: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Total: $102,159</td>
<td>• Total: $104,407</td>
</tr>
<tr>
<td>Auditor</td>
<td>$101,148</td>
<td>• 1% COLA</td>
<td>• 2.2% COLA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Adjustment: $0</td>
<td>• Adjustment: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Total: $102,159</td>
<td>• Total: $104,407</td>
</tr>
<tr>
<td>Treasurer</td>
<td>$101,148</td>
<td>• 1% COLA</td>
<td>• 2.2% COLA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Adjustment: $0</td>
<td>• Adjustment: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Total: $102,159</td>
<td>• Total: $104,407</td>
</tr>
<tr>
<td>Sheriff</td>
<td>$129,060</td>
<td>• 1% COLA</td>
<td>• 2.2% COLA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Adjustment: $1,649</td>
<td>• Adjustment: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Total: $132,000</td>
<td>• Total: $134,904</td>
</tr>
<tr>
<td>Prosecuting</td>
<td>$156,360</td>
<td>January 1st salary, to match</td>
<td>January 1st salary, to match</td>
</tr>
<tr>
<td>Attorney</td>
<td></td>
<td>the salary established for Superior Court</td>
<td>the salary established for Superior Court</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Judges as set by the State of Washington</td>
<td>Judges as set by the State of Washington</td>
</tr>
<tr>
<td>County Executive</td>
<td>$153,865</td>
<td>• 1% COLA</td>
<td>• 2.2% COLA</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Adjustment: $0</td>
<td>• Adjustment: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Total: $155,404</td>
<td>• Total: $158,823</td>
</tr>
<tr>
<td>County Council</td>
<td>$24,705</td>
<td>• 1% COLA</td>
<td>• 2.2% COLA</td>
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<tr>
<td></td>
<td></td>
<td>• Adjustment: $5,048</td>
<td>• Adjustment: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Total: $30,000</td>
<td>• Total: $30,660</td>
</tr>
</tbody>
</table>

Cost of Living Adjustment (COLA):

- The Salary Commission used the Consumer Price Index - All Urban Consumers - West Urban to establish the actual and projected rate of inflation. This is the same index used by the previous Salary Commission. See Attachment A.

- For 2016, the Commission established a 1% percent COLA for all positions. This is based upon the 2.3% COLA applied to the elected positions for 2014 and 2015 exceeding the actual rate of inflation (2013 - 1.48% & 2014 - 1.86%). While the Commission preliminarily established the 2016 COLA at 0%, upon reflection it was changed to 1%, which more accurately reflects the actual difference.

- For 2017, the COLA rate of 2.2% is established.
Assessor, Auditor, Treasurer: The Commission researched the compensation for these positions at other Washington State counties, using the following for benchmarks:
- Assessed Value
- Population
- Number of Employees
- Budget

In each benchmark category, the Counties that were four larger and four smaller than Whatcom County were used for comparison. In all cases, positions are currently above market comparables. See Attachment B.

Based on those comparisons, the Commission concludes no adjustment for these positions is necessary, except for projected inflation.

Sheriff: The Commission researched the compensation for this position at other Washington State counties, using the following for benchmarks:
- Assessed Value
- Population
- Number of Employees
- Budget

In each benchmark category, the Counties that were four larger and four smaller than Whatcom County were used for comparison. See Attachment B. In addition, because the City of Bellingham is a large population center within Whatcom County, the Bellingham Police Chief compensation and duties were used as a comparable.

Because duties for sheriffs vary somewhat by county, the specific scope of duties for the Whatcom County Sheriff was then weighed. Considering the Whatcom County Sheriff's scope of duties also includes managing the county jail and that Whatcom County abuts an international border, as well as the comparison to the City of Bellingham Police Chief, the Commission determined a salary adjustment for 2016 is warranted, as reflected in the table.

Prosecuting Attorney: Other county salary commissions and the state salary commission tie Prosecuting Attorney compensation to Superior Court Judge compensation. That model of compensation was persuasive to the Commission. Thus:

*Effective every January 1st, the salary paid to the Prosecuting Attorney shall be equal to the January 1st salary paid to Superior Court Judges, including adjustments thereto, as determined by the Washington Citizens' Commission on Salaries for Elected Officials under Article XXVIII of the Washington Constitution and Chapter 43.03 RCW.*

County Executive: Whatcom County's management structure (County Executive and seven County Council members) is somewhat unique. Therefore, the County Executive position was compared to other governmental executives within Whatcom County, as well as three other Washington counties with similar Executive/Council forms of government. Based on those comparisons and taking into account the size of the other
comparable counties, the Commission determines no adjustment is necessary except for projected inflation.

**County Council:** Whatcom County's management structure (County Executive and seven County Council members) is somewhat unique.

The County Council is the legislative body for Whatcom County. The Council members have broad areas of responsibilities requiring significant knowledge and research, make impactful decisions affecting all citizens of Whatcom County, and have an ambitious meeting schedule requiring a significant time commitment. While the position has historically been considered part-time, it is apparent the duties require more than 20 hours per week on average and sometimes significantly more.

Based on the criticality of the County Council duties and reflecting the expanding time commitment necessary to appropriately carry out their duties, the Commission determines a salary adjustment for 2016 is warranted, as reflected in the table.
ATTACHMENT A

Consumer Price Index - All Urban Consumers

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>184.7</td>
</tr>
<tr>
<td>2003</td>
<td>188.6</td>
</tr>
<tr>
<td>2004</td>
<td>193.0</td>
</tr>
<tr>
<td>2005</td>
<td>198.9</td>
</tr>
<tr>
<td>2006</td>
<td>205.7</td>
</tr>
<tr>
<td>2007</td>
<td>212.230</td>
</tr>
<tr>
<td>2008</td>
<td>219.646</td>
</tr>
<tr>
<td>2009</td>
<td>218.822</td>
</tr>
<tr>
<td>2010</td>
<td>221.203</td>
</tr>
<tr>
<td>2011</td>
<td>227.485</td>
</tr>
<tr>
<td>2012</td>
<td>232.376</td>
</tr>
<tr>
<td>2013</td>
<td>235.824</td>
</tr>
<tr>
<td>2014</td>
<td>240.215</td>
</tr>
</tbody>
</table>

2005-2014  2.22%  10-year avg
## Summary Elected Official 2014 Salary Comparison

<table>
<thead>
<tr>
<th></th>
<th>Assessor</th>
<th>Auditor</th>
<th>Executive</th>
<th>Prosecuting Attorney</th>
<th>Sheriff</th>
<th>Treasurer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population</td>
<td>$7,636</td>
<td>$7,636</td>
<td></td>
<td>$12,238</td>
<td>$8,812</td>
<td>$7,636</td>
</tr>
<tr>
<td>Assessed Value</td>
<td>$6,593</td>
<td>$6,593</td>
<td></td>
<td>$10,594</td>
<td>$7,814</td>
<td>$6,593</td>
</tr>
<tr>
<td>Annual Expenditures</td>
<td>$7,367</td>
<td>$7,367</td>
<td></td>
<td>$12,094</td>
<td>$8,650</td>
<td>$7,367</td>
</tr>
<tr>
<td>Full-Time Employees</td>
<td>$7,615</td>
<td>$7,615</td>
<td></td>
<td>$12,242</td>
<td>$8,748</td>
<td>$7,615</td>
</tr>
<tr>
<td><strong>Average:</strong></td>
<td><strong>$7,303</strong></td>
<td><strong>$7,303</strong></td>
<td><strong>$11,792</strong></td>
<td><strong>$8,506</strong></td>
<td><strong>$7,303</strong></td>
<td></td>
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<tr>
<td>Whatcom County:</td>
<td>$8,239</td>
<td>$8,239</td>
<td><strong>$12,534</strong></td>
<td>$12,651</td>
<td>$10,513</td>
<td>$8,239</td>
</tr>
</tbody>
</table>

| Salary Difference | $936    | $936    |           | $859                 | $2,007  | $936      |
| Percentage Difference | 12.82% | 12.82% |           | 7.28%               | 23.60%  | 12.82%    |

Background data may be viewed within the Salary Commission's February 19, 2015 packet, available on the Whatcom County website.
### CLEARANCES
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<thead>
<tr>
<th>Initial</th>
<th>Date</th>
<th>Date Received in Council Office</th>
</tr>
</thead>
<tbody>
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<td>County Cou</td>
<td>8/5/2015</td>
<td></td>
</tr>
</tbody>
</table>

### Division Head: [Name]

### Dept. Head: [Name]

### Prosecutor: [Name]

### Purchasing/Budget: [Name]

### Executive: [Name]

### TITLE OF DOCUMENT:
Appointments to the Wildlife Advisory Committee

### ATTACHMENTS:
Application(s)

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

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

WILDLIFE ADVISORY COMMITTEE: 11 Vacancies. Terms expire July 31, 2016 (1 year appointment)  
Membership requirements: Seven of the 11 members will have technical expertise in wildlife and habitat management or current or past professional experience such as, but not limited to, at least one of the following: wetlands manager, wildlife biologist, population biologist, natural resources manager, watershed scientist, conservation specialist, forestry protection, and tribal representative.

---

### COMMITTEE ACTION:

9/15/2015: Introduced 7-0  
9/29/2015: Held in Council to October 13. Application deadline extended to 10 a.m. on Tuesday, October 6, 2015

---

### COUNCIL ACTION:

---

### Related County Contract #: [Number]

### Related File Numbers: [Numbers]

### Ordinance or Resolution Number: [Number]

---

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [website link]
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Barry Wenger
Street Address: 2600 K Street
City: Bellingham
Mailing Address (if different from street address): 
Day Telephone: NA Evening Telephone: NA Cell Phone: 360-806-0448
E-mail address: bawenger@gmail.com

1. Name of board or committee—please see reverse: WILDLIFE ADVISORY COMMITTEE

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? ( ) 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

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

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:

References (please include daytime telephone number): Community goals and objectives.

Signature of applicant: B. Wenger

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: Christopher Kazimer
Date: 8/12/2015
Street Address: 4808 Mosquito Lake Rd.
City: Deming
Zip Code: 98244
Mailing Address (if different from street address): P.O. Box 232 Deming, WA 98244
Day Telephone: 360-393-1338 Evening Telephone: 360-592-2269 Cell Phone:
E-mail address: ChristopherKaz@gmail.com

1. Name of board or committee-please see reverse: Wildlife Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) ( ) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) Three

5. Are you a US citizen? ( ) yes ( ) no

6. Are you registered to vote in Whatcom County? ( ) yes ( ) no

7. Have you ever been a member of this Board/Commission? ( ) yes ( ) no
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County? ( ) yes ( ) no
   If yes, please explain:

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

10. Please describe why you’re interested in serving on this board or commission:

See attached

References (please include daytime telephone number): Chris Elder 360-840-3064
Geoff Martin 360-739-9173

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 Wildlife Advisory Committee

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.

I am an owner and lead carpenter at Rise Over Run Construction Inc., a residential general contractor in Whatcom county. I am a co-founder and president of the Cascadia Naturalist Association, a club of dedicated naturalists focused on deepening place based connections and developing ecological literacy. I am the president of the board of directors at the Deming Public Library. I am a volunteer land steward with the Whatcom Land Trust. I am an avid outdoorsman and a certified master hunter through the department of fish and wildlife.

10. Please describe why you’re interested in serving on this board or commission.

As an avid outdoors-man, hunter, naturalist, and conservationist I have a vested interest in wildlife management and hope to be a link between the scientific community, and the hunting and non hunting public. I also hope to use my knowledge as a builder to provide advice for responsible development and land use with minimal negative impact on our wildlife communities. I believe that Whatcom county is at a critical stage of development and one where which the fate of our wildlife and natural habitats hangs directly in the balance. Making smart responsible decisions now with conservation in mind is the kind of forethought that we need to ensure that our future is one with more wildlife symbiosis and less conflict.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Vikki Jackson

Date: 8-31-15

Street Address: Squalicum Marina, Gate 5 Dock C Slip 28

City: Bellingham

Zip Code: 98225

Mailing Address (if different from street address): 2801 Meridian Street Suite 202

Day Telephone: 360.319.6988

Evening Telephone: same

Cell Phone: same

E-mail address: Vikki@nwecological.com

1. Name of board or committee-please see reverse: Wildlife Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

Wildlife biologist/wetland ecologist

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)

   (X) yes  ( ) no

4. Which Council district do you live in? (X) One ( ) Two ( ) Three

5. Are you a US citizen?  (X) yes  ( ) no

6. Are you registered to vote in Whatcom County?  (X) yes  ( ) no

7. Have you ever been a member of this Board/Commission? ( ) 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: I am an owner of Northwest Ecological Services and at times do contract work for the 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 have been a working wetland ecologist and wildlife biologist in Whatcom County for the past 24 years. My work involves the analysis and review of sensitive habitats and species protected under local, state and federal laws, with extensive experience with Whatcom Co. CAO. I also chair the Wildlife Conservation Trust (funds wildlife research) and the What. Co. Amphibian monitoring project.

10. Please describe why you’re interested in serving on this board or commission: Whatcom County supports a diverse array of wildlife and their habitats. As Whatcom County grows there is continued pressure on wildlife populations. I feel my experience on this committee can assist in improved planning to allow for well planned growth and while maximizing protection to wildlife resources.

References (please include daytime telephone number): Erin Page, Whatcom County PDS Critical Areas, 360-778-5900 ext. 5953

   Kim Weil, City of Bellingham Planning critical areas specialist; Ann Eissinger, Wildlife Biologist Nahketa NW 360-770-6012

Signature of applicant: [Signature]

THIS IS A PUBLIC DOCUMENT: As a candidate for a public board or commission, the above information will be available to the County Council, County Executive, and the public. All board and commission members are expected to be fair, impartial, and respectful of the public, County staff, and each other. Failure to abide by these expectations may result in revocation of appointment and removal from the appointive position.
professional experience

Wildlife Assessments
Over 15 years experience with designing and implementing wildlife surveys, trainings, community education, and research. Taxa include amphibian, avian, palustrine macroinvertebrates.

Wetland Delineations
Over 20 years of experience with field reconnaissance, delineations, WDOE ratings, functional assessments

Stream / Shoreline Delineations
Highly skilled with reconnaissance, delineations, OHWM determinations, habitat assessment

Mitigation
Successfully completed feasibility reviews, bank use plans, restoration plans, wetland/stream mitigation designs, construction oversight, and monitoring

Endangered Species Act (ESA) Assessments
Experienced author of No Effect Letters Biological Assessments / Biological Evaluations, FEMA/NMFS BiOp Habitat Assessments

Environmental Permitting
Consistently and effectively obtained
CWA 404/401 Nationwide and Individual permits
WDFW HPA permits
WA Shoreline Management Act permits
Local Critical Areas Ordinance permits
ESA compliance
SEPA / NEPA checklists and EIS documentation

education

Masters of Science in Biology, wetland ecology
Western Washington University, March 1995

Bachelors of Science in Biology
Western Washington University, June 1987

Bachelors of Arts in Science Education
Western Washington University, August 1966

certifications & continuing education

Certified Professional Wetland Scientist
Society of Wetland Scientists (#514)

Certified Wetland Delineator
U.S. Army Corps of Engineers

Ordinary High Water Mark Determination
WA Coastal Training Program, 2010

ESA Biological Assessment Author
WA Department of Transportation, 2012

relevant employment

Northwest Ecological Services
owner/consulting ecologist, 1996 to present
Bellingham, WA

Independent Consulting Ecologist
owner/consulting ecologist, 1991-1996
Bellingham, WA

Instructor, Wetland Ecology
Western Washington University, 2006

associations

Wildlife Conservation Trust, Chair
Whatcom County Amphibian Monitoring, PM
Society of Wetland Scientists
Washington Native Plant Society, Koma Kulshan Chapter, past chair
Society for Northwestern Vertebrate Biology
Xerces Society
Prof. Wetland Scientist Certification Committee

also see more info at:
www.nwecological.com
www.whatfrogs.org
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Frank E Bob Date: 9-11-15
Street Address: 1400 Moore St, Apt D-16
City: Bellingham, WA Zip Code: 98229
Mailing Address (if different from street address): PO Box 687, Ferndale, WA, 98248
Day Telephone: 360-410-1783 Evening Telephone: Cell Phone:
E-mail address: frank@lummi-nsn.gov

1. Name of board or committee—please see reverse:
   Wildlife Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying?
   (If applicable, please refer to vacancy list.)
   Yes ( ) No ( )

4. Which Council district do you live in?
   ( ) One ( ) Two ( ) Three

5. Are you a US citizen?
   Yes ( ) No ( )

6. Are you registered to vote in Whatcom County?
   Yes ( ) No ( )

7. Have you ever been a member of this Board/Commission?
   Yes ( ) No ( )
   If yes, dates:

8. Do you or your spouse have a financial interest in or are you an employee or officer of any business or agency that does business with Whatcom County?
   Yes ( ) No ( )
   If yes, please explain:

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.

   Have worked with Lummi Tribal Business Council for 20 yrs in Habitat Restoration Section, currently Lummi Natural Resources Policy & Responsible for tribal wildlife issues

10. Please describe why you're interested in serving on this board or commission: To address tribal concerns regarding wildlife issues are known and addressed, and ensure tribal concerns in this area are made aware of.

References (please include daytime telephone number):
   Barbara Brenner—(360-510-5494)
   Myra Jefferson Sr.—(360-410-1706)
   Tony Bellwo—(360-519-1631)

Signature of applicant: [signature]

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COUNCILMEMBERS:
Barbara E. Brenner
Satpal Sidhu
Barr Buchman
Rud Browne
Pete Kremen
Ken Mann
Carl Weimer

APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: ____John McLaughlin__________________________ Date: __9/8/2015__________
Street Address: ____221 Highland Drive________________________
City: __Bellingham________________________________ Zip Code: ___98225_____
Mailing Address (if different from street address): ________________________________
Day Telephone: ___360-738-9446___ Evening Telephone: ___360-738-9446______ Cell Phone: __________________________
E-mail address: __wildlife.wwu@gmail.com_________________________

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) ________________________________ (X) yes ( ) no
4. Which Council district do you live in? ________________________________ (X) One ( ) Two ( ) Three
5. Are you a US citizen? __________________________________________________ (X) yes ( ) no
6. Are you registered to vote in Whatcom County? ________________________________ (X) yes ( ) no
7. Have you ever been a member of this Board/Commission? ________________________________ ( ) 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? ________________________________ (X) yes ( ) no
   If yes, please explain: _____faculty at WWU; board member of Whatcom Land Trust____________
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.
   __Faculty, Environmental Science Dept, WWU. 30 years designing and conducting wildlife research on diverse
   wildlife taxa, including insects, lizards, birds, and carnivores. Additional research experience with amphibians
   and bats. Ph.D. in population biology._____________________________________________________
10. Please describe why you’re interested in serving on this board or commission:
   __To help fulfill need to develop science-based policies and programs for wildlife and habitat management, conservation,
   and restoration, including pro-active approaches.____________________________________________

References (please include daytime telephone number): __Peter McBride (360) 922-2457____________
__________________________________________
John Rybczyk (360) 650-2081________________

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.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Gregg S. Dimphy                                      Date: 8/31/2015
Street Address: 9622665 Kenora Rd.
City: Bellingham, WA                                       Zip Code: 98226
Mailing Address (if different from street address):
Day Telephone: 360-312-2311 Evening Telephone: 360-733-5894 Cell Phone: 360-411-1743
E-mail address: gregg.d@lummi-nsn.gov

1. Name of board or committee: WILDLIFE ADVISORY COMMITTEE
   Please see reverse: TRIBAL REPRESENTATIVE (ALTERNATE)

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.)
   Yes (X) No ( )

4. Which Council district do you live in?
   One (X) Two ( ) Three ( )

5. Are you a US citizen?
   Yes (X) No ( )

6. Are you registered to vote in Whatcom County?
   Yes ( ) No (X)

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? If yes, please explain: EMPLOYEE OF LUMMI INDIAN BUSINESS COUNCIL (X) Yes ( ) No

You may attach a resume 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: TO SERVE AS ALTERNATE FOR FRANK E. BAK, LUMMI NATION REPRESENTATIVE; TO PROVIDE PROFESSIONAL INPUT TO COMMITTEE AS WILDLIFE RESOURCE ADVOCATE.

References (please include daytime telephone number):
   EDDIE ALLARD (LUMI, COMMISSIONER) (360-733-1401), LEROY DAVIS (312-2373), MARCUS JEFFERSON (312-2373)

Signature of applicant:

THIS IS A PUBLIC DOCUMENT. IF you are an applicant 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: Wendy Harris
Street Address: 1111 Baycrest #201
City: Bellingham
Mailing Address (if different from street address): 
Day Telephone: 922-0447 Evening Telephone: 
Cell Phone: 990-6919

1. Name of board or committee—please see reverse:

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you're applying? (If applicable, please refer to vacancy list.)

4. Which Council district do you live in?
   Yes One No Two No 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

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

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

10. Please describe why you're interested in serving on this board or commission:
    I am an advocate for wildlife and believe we need to develop management policies to protect wildlife and meet federal legal requirements.

References (please include daytime telephone number):
    Jack Weiss, Bellingham City Council Member 735-2103; Wendy Stidfoles, North Sound Bookkeeper 733-8307

Signature of applicant: [Signature]

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9. I am a retired senior federal attorney. My responsibilities included extensive research and writing, teaching, litigation in U.S. Tax Court, and coordination of civil and criminal cases with the U.S. Department of Justice. I received a number of performance related awards, including a "Box Award" for helping to advance case law in the Ninth Circuit Court of Appeals.

Since relocating to Bellingham, I have participated in the public process with a focus on GMA issues regarding natural resources, particularly wildlife and habitat and developed an extensive background in, and understanding of, conservation planning. I will add a unique legal perspective to the committee's work.

My experience in this field includes:

- Training as a Beach Watcher through the University Coop. Extension program
- Member of committee reviewing and ranking urban wildlife grant proposals for the Washington Recreation and Conservation Office.
- County Planning Commission Ad Hoc committee member for ILF off-site mitigation/wildlife habitat project
- Participated in County natural resource market place project
- Participated in Bellingham habitat restoration masterplan project
- Member of County Citizen Advisory Committee for update of Critical Area Ordinance
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Fenner Yarborough
Street Address: 3023 Crest Ct
City: Bellingham, WA
Mailing Address (if different from street address): 
Day Telephone: 360-982-8120
Evening Telephone: 
Cell Phone: 
E-mail address: fenner.yarborough@dfw.wa.gov

Date: 10/5/2015

1. Name of board or committee—please see reverse: Wildlife Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.) (x) yes ( ) no

4. Which Council district do you live in? ( ) One ( ) Two ( ) 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 ( ) 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.
District Wildlife Biologist for Whatcom County– Washington Dept of Fish and Wildlife. Masters Degree in Wildlife Biology, 12+ years

Experience

10. Please describe why you’re interested in serving on this board or commission: I think I could bring a technical background to the committee and help provide insight to the group.

References (please include daytime telephone number): Russ Link – 425-775-1311

Signature of applicant: 

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Joel Ingram
Street Address: 4311 Rural Avenue
City: Bellingham
Mailing Address (if different from street address):
Day Telephone: 360-584-6339 Evening Telephone: 360-393-1457 Cell Phone: 260-393-1457
E-mail address: joel.ingram@dsh.wa.gov

Date: 10/05/2015

1. Name of board or committee—please see reverse: ____________________________ Wildlife Advisory Committee

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) ____________________________ (X) yes ( ) no

4. Which Council district do you live in? ____________________________ ( ) One ( ) Two (X) Three

5. Are you a US citizen? ____________________________ (X) yes ( ) no

6. Are you registered to vote in Whatcom County? ____________________________ (X) yes ( ) no

7. Have you ever been a member of this Board/Commission? ____________________________ ( ) 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? ____________________________ (X) yes ( ) no
   If yes, please explain: I am the Washington Department of Fish and Wildlife WRIA 1 Habitat Biologist responsible for aquatic related work and construction permitting (HPA).

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.
   As stated above I work for WDFW and am the local Habitat Biologist for the majority of the Whatcom County area. I conduct environmental review of in-water and near water related construction, restoration, maintenance and mitigation. I write permits for these types of activities that allow the activities to move forward but ensure that they do not negatively affect in-water habitat and I provide Best Management Practices (BMPs) and guidelines for limiting and controlling impacts. I sit on the WRIA 1 Salmon Recovery Staff Team and I have been on several large planning advisory groups that inform actions conducted by Whatcom County River and Flood and Whatcom County Critical Areas.

10. Please describe why you’re interested in serving on this board or commission;
    As the county grows, I believe it is appropriate that development go hand in hand with protections to the environment. In my book it is not one or the other but developing a common ground that allows for development to continue but also allows for a vibrant and resilient habitats which support healthy wildlife populations. Whatcom County still has several areas that are important for movement of wildlife species from nesting, breeding and foraging areas. Limiting Habitat fragmentation and maintaining Biodiversity are two concepts that have been seen as some of the best ways in which to create resilient habitats and offset some of the changes that will be seen during the upcoming years with climate change. Let’s plan appropriately for the future and include the needs of wildlife and their habitat, two of the many revered characteristics of Whatcom County

References (please include daytime telephone): Robert Wariner, WDFW Assistant Regional Habitat Program Manager, 360-466-4345 x 252

Applicants Signature: ____________________________

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APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Michael P. Williams, Ph.D. Date: 10/5/2015

Street Address: 1204 E Maplewood Ave
City: Bellingham, WA 98225 Zip Code: 

Mailing Address (if different from street address): (Same)

Day Telephone: 360-738-4958 Evening Telephone: 530-228-1230 Cell Phone: 

E-mail address: wyethwa@earthlink.net

1. Name of board or committee—please see reverse: Wildlife Advisory Committee

2. You must specify which position you are applying for.

Please refer to vacancy list.

Wildlife Advisory Committee

with expertise: Watershed Scientist or Population Biologist or
Natural Resource Manager or Conservation Specialist

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 U.S. 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.

[See attached résumé]

10. Please describe why you’re interested in serving on this board or commission: I just recently retired and am available to assist in local planning toward habitat conservation enhancement and restoration. I have extensive experience in Washington state and understand the issues well.

References (please include daytime telephone number): Peter Hummel 206-287-9130 ext. 225 Dr. Charles Williams (no relationship), 541-346-3176; Dr. Michael Mattiuk, 254-493-4097

Signature of applicant: Michael P. Williams

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MICHAEL P. WILLIAMS, Ph.D.

1204 E. Maplewood Ave.
Bellingham, WA 98225
530-228-1230 cell
wyethia@earthlink.net

Mike was employed from 2006 to 2015 as a full-time member of the Biology faculty at Butte College in Oroville, California, a two-year public institution serving north central California, teaching majors sequence Botany/ecology, Field Biology, and Introductory Biology. For the previous seven years, he served as the Reserve Director for a 6,000 acre research natural reserve for the University of California, Santa Barbara. Previously, Mike served as the principal ecologist in his own firm located in Seattle with projects throughout the western United States including Alaska. His technical specialties include riparian-wetland inventories and assessments, restoration, mitigation and monitoring designs from master planning through site construction, vegetation surveys, inventories of endangered, threatened, and sensitive plant species, population distributions, and forest composition characterizations. He was actively involved in master planning, background studies for regional planning projects, watershed and landscape analyses for habitat restoration, and in all aspects of permitting, designing and implementing mitigation and restoration projects. In addition, he is the managing general partner of a California limited partnership which has had commercial and industrial real estate holdings in California.

EDUCATION
M. S. Botany, University of Tennessee, Knoxville, 1980.
B. A. Botany, University of California, Santa Barbara, 1976.

PROFESSIONAL HISTORY
Full-time Faculty Member, Butte College, Biology Department, Oroville, CA, 2006 to present.
Reserve Director, University of California, Sedgwick Reserve, 1999 to 2006.
Instructor, Seattle Central Community College, Botany 112, Introductory Botany, Spring 1999.
Instructor for King County Wetlands Short Course, Washington State Extension Service, 1995.
Research Associate II/Manager, University of California, Sagehen Creek Field Station, 1981 to 1985.

HONORS AND PROFESSIONAL SOCIETY INVOLVEMENT
President of the Society for Ecological Restoration-Northwest Chapter (SER-NW) 1997-1998
Current Peer Reviewer for Conservation Biology, Madroño, and Northwest Science.
National Science Foundation Dissertation Improvement Grant, Fall 1986 through Fall 1988.
Sigma Xi Science Society, Elected as Member, 1985.
President of the Northern Nevada Native Plant Society, 1982-84.
Task Force Member, Urban Soil and Water Conservation, Society of Soil and Water Conservation.
Waterfront Centre Award, 1997, Golden Gardens Park Shoreline Restoration with Bruce Dees & Associates.
Excellence in Teaching Award, National Society of Leadership & Success, May 12, 2012.

10/05/15

282
Excellent in Community Service, Books In Common Committee, April 22, 2013.
Outstanding Teacher of the Year, Butte College Commencement, presented by Phi Theta Kappa, May 28, 2014

RECENT SPECIALIZED TRAINING
Construction Site Erosion and Spill Control Certification Course, Washington
Department of Transportation, 1998; and Certification through 2001.
Restoration Implementation: Native Plant Specifications and Installing Restoration Projects, The Society

SELECTED PUBLICATIONS
(Used surname of Yoder-Williams from 1979 to 1989.)

Williams, M. P. 2012. Berberidaceae [family treatment], revised. In B. Baldwin and D. Wilken (eds.) The

Endler, J. (Chair), S. Mazer, M. Williams, C. Sandoval, and W. Ferren. 2001. Problems associated with
Introductions of Non-Native Genotypes on NRS Reserves. University of California, Natural Reserve
System, Committee to evaluate introduction of exotic genotypes into UC Reserves.

2000. Review of Scientific Material Relevant to the Occurrence, Ecosystem Role, and Tested Management
Options for Mountain Goats (Oreamnos americanus) in Olympic Mountain National Park. Contract report

Michael P. Williams Consulting, Inc.

dynamics, scale and function. In: The Role of Restoration in Ecosystem Management, Pearson, D.L. and
C.V. Klimas (eds.) Society for Ecological Restoration, Parks Canada.

Ph.D. Dissertation, University of Washington, Seattle.


Parker, V. T. and M. P. Yoder-Williams. 1989. Reduction of survival and growth of Pinus jeffreyi by an

Folt, C. L., M. J. Weaver, M. P. Yoder-Williams, and R. P. Howmiller. 1989. Field studies comparing


PROFESSIONAL MEMBERSHIPS AND CERTIFICATIONS
California Botanical Society, 1975 to present.
Botanical Society of America, 1985 to present.
Northern Nevada Native Plant Society, 1978 to 1999

10/05/15
California Native Plant Society, 1982 to present.
Sigma Xi, Full Member, 1985 to present.
Society for Ecological Restoration, 1992 to 2006
Society of Wetland Scientists, 1990 to 1999
Society for Conservation Biology, 1994 to 2008
Washington Native Plant Society, 1994 to 1999

TECHNICAL REPORTS (most recent)


Biological Inventory and Habitat Assessment Report for Farrell’s Marsh Park, Town of Steilacoom, Pierce County, Washington. Prepared for the Town of Steilacoom Parks Department, Pierce County, Washington.

An Analysis of the Jurisdictional Status of Waters of the United States, including Wetlands, a Conceptual Mitigation Plan, and a Fish & Wildlife Habitat Assessment at the South Prairie to Buckley Segment of the Foothills Linear Park/Trail Segment of the Nisqually Delta-Mount Rainier Trail in Pierce County, Washington. Prepared for Pierce County Parks, Recreation and Community Services Department, Pierce County, Washington.

An Analysis of the Jurisdictional Status of Waters of the United States, including Wetlands, a Wetlands Functions and Values Assessment and a Preliminary Mitigation Plan at the Proposed Swamp Creek Park Site, King County, Washington. Prepared for the King County Department of Construction and Facilities Management.

An Analysis of the Jurisdictional Status of Waters of the United States, including Wetlands at the Proposed Pritchard Reserve Park Site, King County, Washington. Prepared for the City of Seattle Department of Parks and Recreation.

An Analysis of the Jurisdictional Status of Waters of the United States, including Wetlands, a Compensatory Mitigation Plan, and the Final Mitigation Monitoring Plan at the Proposed Dickman Mill Park Site, Pierce County, Washington. Prepared for the Metropolitan Parks Department, City of Tacoma, Pierce County, Washington.


10/05/15


Mitigation and Monitoring Report, Thurston County/Grays Harbor County ORV Park Stream Crossing. Prepared for Thurston County Parks Department.

Inventory of the vegetation and land use along 167 miles of the Hell's Canyon study area, Snake River. Aerial Photography interpretation and mapping for Idaho Power Company, Boise, Idaho.


Wetlands Delineation Report and Detailed Mitigation Plan, Crescent City Landfill, Del Norte County, California. Prepared for the Del Norte Solid Waste Management Authority.

Inventory of wetland and riparian zones, Thurston Regional Wetland and Stream Corridor Inventory, Phase III--Deschutes River Middle Reach, 57 square mile study area. Prepared for Thurston Regional Planning Council.


PRESENTATIONS (most recent)


Professional References

1. Mr. Peter Hummel, ASLA
   Anchor Environmental, 1411 4th Ave., #1210
   Seattle, WA 98101
   206-287-9130, ext. 225
   phummel@anchorenv.com

2. Dr. Charles Williams (no relation)
   Associate Vice President for Innovation
   Office for Research, Innovation and Graduate Education.
   University of Oregon
   Eugene, OR 97403
   541-346-1000
   eyano@attbi.com

3. Dr. Michael Matiashek
   Butte College, Dept. of Biology, TE-132
   3565 Butte Campus Dr.
   Oroville, CA 95965
   254-493-4097
   matiasekmi@butte.edu
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Paul A. Woodcock
Street Address: 1291 Deer Creek Drive
City: Ferndale
Mailing Address (if different from street address): 
Day Telephone: 360-380-3356 Evening Telephone: same Cell Phone: 360-966-6549
E-mail address: paulwoodcock@comcast.net

Date: October 6, 2015
Zip Code: 98248

1. Name of board or committee—please see reverse:
   Wildlife Advisory Committee
   Member of Wildlife Advisory Committee

2. You must specify which position you are applying for.
   Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying?
   (If applicable, please refer to vacancy list.) ☑ yes ( ) no
4. Which Council district do you live in? ( ) One ( ) Two ☑ Three
5. Are you a US citizen? ☑ yes ( ) no
6. Are you registered to vote in Whatcom County? ☑ yes ( ) no
7. Have you ever been a member of this Board/Commission?
   If yes, dates: __________________________________________
   ( ) yes ☑ no
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: ____________________________________
   ( ) yes ☑ no

You may attach a résumé or detailed summary of experience, qualifications, & interest in response to the following question:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities, and education.
   Retired Operations Supervisor, Whatcom Transportation Authority; B.S in Environmental Education, WWU; Twenty years on North Cascades Audubon Society Board of Directors; Life-long “birder” and student of ornithology.

10. Please describe why you’re interested in serving on this board or commission: I am an educated and conscientious citizen with a lifelong interest in our native wildlife and its habitat, particularly birds. Since my retirement I have concentrated my volunteer efforts on public education related to local bird and habitat to help preserve our natural heritage for our children and theirs. Michael McFarlane, Whatcom Co. Parks, 360-733-2900; Dr. John Bower, WWU 360-650-7217; Paul Schramer, WTA, 360-676-6843.

Signature of applicant: Paul A. Woodcock

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WHATCOM COUNTY COUNCIL AGENDA BILL

CLEARANCES | Initial | Date | Date Received in Council Office | Agenda Date | Assigned to:
---|---|---|---|---|---
Originator: | SM | 9/30/15 | | October 13, 2015 | Council
Division Head: | | | | |
Dept. Head: | | | | |
Prosecutor: | | | | |
Purchasing/Budget: | | | | |
Executive: | | | | |

TITLE OF DOCUMENT: Appointment to the Whatcom County Parks & Recreation Commission

ATTACHMENTS: Application for appointment from Paul Yadon

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.)

County Executive Jack Louws requests confirmation of his appointment of Paul Yadon to fill the District 2 position on the Parks and Recreation Commission.

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.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS

PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Paul V. Yadon
Street Address: 7826 Chateau Rd.
City: Maple Falls, WA.
Mailing Address (if different from street address):
Day Telephone: (360) 599-9834
Evening Telephone: (Same)
Cell Phone: (206) 999-9564
E-mail address: VYadon@Yahoo.com

1. Name of board or committee—please see reverse: Parks & Recreation Commission

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 question:

9. Please describe your occupation (or former occupation if retired), qualifications, professional and/or community activities and education.
   B.A. Knoxville College; Current Pastor Kendall Chapel, Chairman of the Board of Kendall/Columbia Valley Connectivity Plan Association, Past President of Friends of the North Fork Library, Member of CTAG of Whatcom Council of Governments Support Officer for Kendall/Columbia Valley Area

10. Please describe why you’re interested in serving on this board or commission: I have been involved for the past 8 years in a broad range of civic groups to promote both spiritual and physical health for the residents of Dist. 2. Presently, my main focus has been trying to design and build a trail to promote health & safety for the residents of Kendall/Columbia Valley

References (please include daytime telephone number): Jerry DeBruin (360) 599-2823 - Dist. 14 Fire Chief

Signature of applicant: Paul V. Yadon

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.
### TITLE OF DOCUMENT:
Appointment to Flood Control Zone District Advisory Committee

### ATTACHMENTS:
Application

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

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

FLOOD CONTROL ZONE DISTRICT ADVISORY COMMITTEE
1 Vacancy representing a geographic area, partial term ending 1/31/2016
Committee assists and makes recommendations to the Board of Supervisors in performing flood damage repairs, maintenance and improvements, and minimizing future flood damage through prevention and management on the Nooksack River, its watershed, and the other watersheds within Whatcom County. Meets the second Thursday of the month or as needed.

### 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.
APPLICATION FOR APPOINTMENT TO WHATCOM COUNTY BOARDS AND COMMISSIONS
PLEASE PRINT LEGIBLY and COMPLETE ALL ITEMS

Name: Fred "Sonny" Kunchick
Date: 10/05/2015
Street Address: 5875 Green Acres Dr.
City: Bellingham, Everson, WA
Zip Code: 98247

Mailing Address (if different from street address):

Day Telephone: 360-318-6356  Evening Telephone: Cell Phone: 11
E-mail address: skunchick75@gmail.com

1. Name of board or committee—please see reverse: Flood Control Zone Dist. Advisory Committee member

2. You must specify which position you are applying for. Please refer to vacancy list.

3. Do you meet the residency, employment, and/or affiliation requirements of the position for which you’re applying? (If applicable, please refer to vacancy list.)  yes  no

4. Which Council district do you live in? One  Two  Three

5. Are you a US citizen?  yes  no

6. Are you registered to vote in Whatcom County?  yes  no

7. Have you ever been a member of this Board/Commission?  yes  no

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.

I currently work as a Hazard Mitigation Assistance Specialist for the Federal Emergency Management Agency. I have been in this position for over 6 years. My college degree is in hazard mitigation.

10. Please describe why you’re interested in serving on this board or commission: I have many years of experience in developing and managing Flood Control projects and I would like to use that experience to support this committee in creating a safer and more resilient community.

References (please include daytime telephone number): John Graves (FEMA flood insurance branch) 425-497-4737 – Deb Gandolfo (Flood insurance specialist) 425-487-

Signature of applicant: 10-05-2015

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.
### 2015 Supplemental Budget Request #11

**Title of Document:** Ordinance, Memoranda & Budget Modification Requests

<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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<tbody>
<tr>
<td>SEPA review completed?</td>
<td>Yes</td>
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</table>

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

Supplemental #11 requests funding from the General Fund:

1. To appropriate $127,600 in Planning & Development Services to fund continuation of Ag & Watershed Protection project from grant proceeds.
2. To appropriate $38,000 in the Sheriff’s Office to fund Verizon antenna installation and upgrade.
3. To appropriate $14,655 in the Sheriff’s Office to fund the replacement of seventeen ballistic vests from grant proceeds.

From the Jail Fund:

4. To appropriate $28,402 to fund digital radio conversion.

---

**Related County Contract #:** | **Related File Numbers:** | **Ordinance or Resolution Number:**
PROPOSED BY: Executive  
INTRODUCTION DATE: 10/13/15

ORDINANCE NO.  
AMENDMENT NO. 11 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>General Fund</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Planning &amp; Development Services</td>
<td>127,600</td>
<td>(127,600)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>52,655</td>
<td>(52,655)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td>180,255</td>
<td>(180,255)</td>
<td>-</td>
</tr>
<tr>
<td>Jail Fund</td>
<td>28,402</td>
<td>-</td>
<td>28,402</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td>208,657</td>
<td>(180,255)</td>
<td>28,402</td>
</tr>
</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:  

Jack Louws, County Executive

( ) Approved ( ) Denied

Date: __________________________

I:\BUDGET\SUPPLS\2015_Suppl\Supplemental #11-2015.docx
<table>
<thead>
<tr>
<th>Department/Fund</th>
<th>Description</th>
<th>Increased (Decreased) Expenditure</th>
<th>(Increased) Decreased Revenue</th>
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</thead>
<tbody>
<tr>
<td>General Fund</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Planning &amp; Development Services</td>
<td>To fund continuation of Ag &amp; Watershed Protection project from grant proceeds.</td>
<td>127,600</td>
<td>(127,600)</td>
<td>-</td>
</tr>
<tr>
<td>Sheriff</td>
<td>To fund Verizon antenna installation and upgrade.</td>
<td>38,000</td>
<td>(38,000)</td>
<td>-</td>
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<tr>
<td>Sheriff</td>
<td>To fund replacement of seventeen ballistic vests from grant proceeds.</td>
<td>14,655</td>
<td>(14,655)</td>
<td>-</td>
</tr>
<tr>
<td>Total General Fund</td>
<td></td>
<td>180,255</td>
<td>(180,255)</td>
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</tr>
<tr>
<td>Jail Fund</td>
<td>To fund digital radio conversion.</td>
<td>28,402</td>
<td>-</td>
<td>28,402</td>
</tr>
<tr>
<td>Total Supplemental</td>
<td></td>
<td>208,657</td>
<td>(180,255)</td>
<td>28,402</td>
</tr>
</tbody>
</table>
Supplemental Budget Request

Planning & Development Services

Status: Pending

Supp'l ID # 2031  Fund 1  Cost Center 2543  Originator: J.E. Sam Ryan

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

Name of Request: Puget Sound Watershed Protection Grant

X

Department Head Signature (Required on Hard Copy Submission)  Date

9-29-15

Costs:  Object  Object Description  Amount Requested

4333.6612  Puget Sound Watershed Grant  ($127,600)

6830  Professional Services  $127,600

Request Total  $0

1a. Description of request:
The Proposed ASR is to continue the work and implement the Ag & Watershed Protection Project as described under Grant Contract 201203014.

1b. Primary customers:
The citizens of Whatcom County benefit from this project by the exploration of policies aimed at protecting both agriculture and riparian habitat areas.

2. Problem to be solved:
The completion of this project will entail using $15,000 to complete the current work being done by the consultant regarding the creation of a final program report and implementation plan with program details. $60,200 of the funds would be used by the consultant to work closely with county staff and the Agricultural Advisory Committee to develop a policy framework for an agricultural mitigation program. $52,400 will be used by the consultant to work closely with the Watershed Improvement Districts (WID) and Whatcom County PDS to map priority areas for agriculture benefits as well as watershed benefits throughout the County's agriculture zone. This mapping will assist the WIDs in their comprehensive planning process (providing some baseline information). It will also be mutually beneficial to the County in the implementation of an ag-mitigation program, as well as comprehensive planning efforts.

3a. Options / Advantages:

3b. Cost savings:
Grant funds will cover consultant costs to implement priorities in the Ag Strategic Plan.

4a. Outcomes:
Grant funds will be used to reimburse appropriate expenses, according to the contract.

4b. Measures:
Specific deliverables are articulated in the grant contract that will be the basis for the project's success.

5a. Other Departments/Agencies:
Planning is the lead on this project with support from Public Works.

5b. Name the person in charge of implementation and what they are responsible for:
There are three local agency partners that have committed to in-kind support over the course of the project: Whatcom Farm Friends, WA Dept of Fish & Wildlife and the Whatcom Conservation District.

6. Funding Source:
The funding source is the Washington State Department of Commerce, Land Government and Infrastructure Division, Growth Management Services Unit and the National Estuary Program (NEP) -

Tuesday, September 29, 2015

Rpt: Rpt Suppl Regular
### Supplemental Budget Request

<table>
<thead>
<tr>
<th>Planning &amp; Development Services</th>
<th>Planning</th>
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<tbody>
<tr>
<td><strong>Supp ID #</strong> 2031</td>
<td><strong>Fund</strong> 1</td>
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</table>

Puget Sound Watershed Protection Restoration Grant: Agreement Number: 12-63401-008.
Memorandum

TO: Jack Louws, County Executive

FROM: Sheriff Bill Elfo

DATE: September 28, 2015

SUBJECT: Supplemental Budget ID# 2005

Verizon Antenna Installation and Upgrade

The attached Supplemental Budget requests budget authority for Verizon Antenna Installation and Upgrade in 2015.

**Background and Purpose**
The Sheriff’s Office requests authority to upgrade the Distributed Antenna System in the Whatcom County Public Safety Building (Sheriff’s Office), Jail, and Emergency Operations Center to be compatible with the Verizon Wireless cell phone system.

The current system is a Sprint Wireless system which is not compatible for voice and data coverage with our current Verizon devices.

Verizon will reimburse the Sheriff’s Office up to $38,000 in the form of a credit to our account for this transition once the work is completed by the third-party vendor, Wireless Applications Consulting. The work must be completed and invoiced prior to the end of 2015 to obtain the credit from Verizon.

**Funding Amount and Source**
Verizon will provide reimbursement up to $38,000 in the form of a credit to Sheriff’s Office account.

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions.

Thank you.
Supplemental Budget Request

Sheriff Administration

Supp ID # 2005 Fund 1 Cost Center 2900 Originator: D. Chadwick / K. Hester

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

Name of Request: Verizon Antenna Installation and Upgrade

Department Head Signature (Required on Hard Copy Submission) Date

X Φ

9/30/15

Costs: Object Object Description Amount Requested

4369.9091 Current Yr Refund of Ex ($38,000)

6510 Tools & Equip $38,000

Request Total $0

1a. Description of request:
This Supplemental Budget is to upgrade the Distributed Antenna System in the Whatcom County Public Safety Building (Sheriff's Office) and Jail, as well as the Emergency Operations Center, to be compatible with the Verizon Wireless cell phone system. The current system is a Sprint Wireless system which is not compatible for voice and data coverage with our current Verizon devices. Verizon will reimburse/credit our account up to $38,000 for this transition, once completed by the third-party vendor Wireless Applications Consulting.

1b. Primary customers:
The primary customers for this service would be the Whatcom County Sheriff's Office, members of other agencies and first responders who utilize the Jail, Public Safety Building, and Emergency Operations Center and county employees who conduct business with the Sheriff's Office.

2. Problem to be solved:
The Whatcom County Sheriff's Office previously had cellular phone service with Sprint. Due to issues within our buildings (large amounts of concrete and steel, etc.) cellular service was not good. Sprint put in an internal antenna system which allowed cellular communications to take place. In July of 2014, the Sheriff's Office switched to Verizon Wireless as they provided better rates, equipment and service throughout Whatcom County. The one drawback was cellular service in the Public Safety Building.

This problem was addressed with an attempt to use network extenders to boost the cellular service within the building. This worked for a short time, but was not meant to be a long term fix. The network extenders have since stopped working properly and a permanent fix needs to be found. Currently, cellular service (both voice and data) are intermittent at best and cause a high number of dropped calls or missed calls. As cellular communication is vital to an agency that deals with emergency service, this is unacceptable.

Wireless Applications Consulting will replace the current Sprint roof antenna with a Verizon antenna; replace the existing Sprint repeater with a Verizon repeater and put all Verizon compatible parts in the existing ceiling runs of the Public Safety Building and the Whatcom Unified Emergency Coordination Center / EOC. This should dramatically improve cellular service for our employees.

3a. Options / Advantages:
We have tried the simplest fix of using network extenders to solve the issue. These were relatively cheap and Verizon provided them as a temporary fix. They worked well for the first couple of months, but for the last 8 months they have not done the job needed. A more permanent fix is needed.

Another option would be to have a complete new Verizon system installed. This would be in excess of
$125,000 to have completed and the county would have to bear the cost. For a building that might only be used for the next 5-6 years, this is not the most cost effective approach.

This is the best option which includes using the existing infrastructure and replacing it with Verizon compatible components. The work would be performed by a third party contractor (Wireless Applications Consulting) to Verizon’s standards. Upon completion and submitting the invoice, Verizon has agreed to credit our account up to $38,000 for completion of this work.

3b. Cost savings:
The current level of cellular service in the Public Safety Building is unacceptable and a safety factor. This option saves us over $100,000 by not building a new system to solve the issue. By making the current infrastructure Verizon compatible, the cost is below $38,000 and Verizon has agreed to reimburse/credit us this amount.

4a. Outcomes:
Once the work is completed, Verizon cellular voice and data service will be at full strength and working properly within the 2nd floor of the Jail, the main Sheriff's Office and DEM's Emergency Operations Center. This needs to be completed and invoiced prior to the end of 2015 to obtain the credit from Verizon.

4b. Measures:
By the improved signal strength of WCSO issued Verizon cellular phones.

5a. Other Departments/Agencies:
The improved signal strength will also have an impact on other county agencies who utilize Verizon wireless while in our building, as well outside agencies who are visiting the Sheriff's Office.

5b. Name the person in charge of implementation and what they are responsible for:
Whatcom County Facilities Management and Mike Russell will be part of this project. They will handle the contracts and scheduling portion. Facilities will request the PO from Finance, through the Sheriff's Office. Once a contract is signed and approved, they will coordinate with the Contractor (WAC) and the Sheriff's Office to complete the work.

6. Funding Source:
The funding will be out of the existing Sheriff's Office budget and will be reimbursed/credited back to the Sheriff's Office from Verizon upon completion and verification of the work.
Memorandum

TO: Jack Louws, County Executive
FROM: Sheriff Bill Elfo
DATE: September 28, 2015
SUBJECT: Supplemental Budget ID# 2009
2015 Edward Byrne Memorial JAG - Ballistic Vest Replacement

The attached Supplemental Budget requests budget authority to use 2015 Edward Byrne Memorial Justice Assistance Grant funds to purchase ballistic vests.

Background and Purpose
The U.S. Department of Justice awarded 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) Program funds September 14, 2015 to the Sheriff’s Office for Safety and Ballistic Protection (Whatcom County Contract No. 201509022). The Sheriff’s Office will use these funds to purchase approximately 17 of the 27 additional ballistic vests that need to be replaced in 2015 due to a previous recall that affected the vest replacement cycle.

Funding Amount and Source
U.S. Department of Justice 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Funds, CFDA No. 16.738

Please contact Undersheriff Jeff Parks at extension 6610 if you have any questions.
Thank you.
Supplemental Budget Request

Sheriff Operations

Supp'ID # 2009 | Fund 1 | Cost Center 1003515004 | Originator: Dawn Pierce

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

Name of Request: 2015 Edward Byrne Memorial JAG - Ballistic Vests

X

Department Head Signature (Required on Hard Copy Submission) 9/28/15

<table>
<thead>
<tr>
<th>Costs</th>
<th>Object</th>
<th>Object Description</th>
<th>Amount Requested</th>
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<td>4333.1673</td>
<td>Byrne JAG Grant</td>
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<tr>
<td></td>
<td>6320.001</td>
<td>Office &amp; Op Supplies</td>
<td>$14,655</td>
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</table>

Request Total $0

1a. Description of request:
The U.S. Department of Justice awarded 2015 Edward Byrne Memorial Justice Assistance Grant Program funds September 14, 2015 to the Whatcom County Sheriff's Office for Safety and Ballistic Protection (Whatcom County Contract No. 201509022). The Sheriff's Office will use these funds to purchase approximately 17 of the 27 additional ballistic vests that need to be replaced in 2015 due to a previous recall that affected the vest replacement cycle.

1b. Primary customers:
Sheriff's Office deputies.

2. Problem to be solved:
Budget authority is needed to purchase ballistic vests as approved in the grant award.

3a. Options / Advantages:
Grant funds were awarded specifically for "Safety and Ballistic Protection."

3b. Cost savings:
Cost savings of $14,655.

4a. Outcomes:
Ballistic vests will be purchased in 2015.

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:
WHATCOM COUNTY SHERIFF’S OFFICE
MEMORANDUM

DATE: 09/25/15

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

FROM: Sheriff Bill Elfo

RE: Supplemental Budget Request #2015-1982 Digital Radios

Please allow this memo to serve as a request for approval of the accompanying budget supplemental. This supplemental will fund the final stages of a radio upgrade and replacement project.

We have purchased and supplied Corrections Deputies with digital-capable hand-held radios. Digital radios are now the industry standard for first responders and public safety. Due to outdated infrastructure in the main jail, currently the radios only operate on the old analog system. This means that Deputies cannot communicate clearly with each other within portions of the Public Safety Building, the Courthouse and to other responders nearby. This compromises security and negatively impacts their ability to communicate and respond during emergencies, and during non-emergency situations where additional Deputies or other first responders are needed.

The supplemental will pay for the installation of needed infrastructure, and reprogramming of the current radios, which will allow us to complete the transition to the digital platform.

Chief Wendy Jones is overseeing this process and will be happy to answer any question you may have. Thank you,
Supplemental Budget Request

Jail

<table>
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<tr>
<th>Supp ID #</th>
<th>Fund</th>
<th>Cost Center</th>
<th>Originator</th>
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<tr>
<td>1982</td>
<td>118</td>
<td>118000</td>
<td>Caleb Erickson</td>
</tr>
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</table>

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

Name of Request: Digital Radio Conversion

X

Department Head Signature (Required on Hard Copy Submission)  Date: 9/30/15

Costs:

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<th>Object Description</th>
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<tbody>
<tr>
<td>6510</td>
<td>Tools &amp; Equip</td>
<td>$28,402</td>
</tr>
</tbody>
</table>

Request Total $28,402

1a. Description of request:
This supplemental request is to finalize the jails conversion of the hand held radios to digital mode. We have purchased new Motorola radios for the downtown facility, but they are currently only able to operating in analog mode which has put our staff at risk.

Deputies cannot rely on the equipment to work well enough to be heard from the 3rd floor of the jail or in the courthouse if they are calling for help. The addition of supporting equipment and cabling, as well as conversion to a new digital channel is what our radio vendor recommends to reduce this risk.

1b. Primary customers:
Corrections Deputies.

2. Problem to be solved:
Deputies cannot communicate clearly to each other either within the downtown jail or between the jail and the Courthouse. This places the Deputies and the facility at risk in the event of any type of an emergency, and creates confusion and misunderstanding in routine communications.

3a. Options / Advantages:
The additional option would be to purchase more expensive radios, which may or may not work as well in the jail environment, thus duplicating the existing situation.

The selected option is best because it allows us to use our current model radios and simply add the additional infrastructure to our system, which will allow us to do the programming to convert the current radios to a digital platform, and therefore be able to add communication points for staff providing for direct communication, and reduce the distance signal must travel in order to be broadcast to the rest of the staff.

3b. Cost savings:
The alternative would mean replacing all of our current radios (80 radios at a cost of approximately $7000.00 per radio for a total pre-tax cost of $560,000) with no guarantee the new ones would function any better in the jail environment.

4a. Outcomes:
NW Communication will:

1) Install a 2 section digital channel on all Motorola 7550 radios

2) Add leaky coaxial cable throughout the Courthouse and Public Safety Buildings

3) Add a repeater and a duplexer in the Control Booth at the Downtown Jail

Wednesday, September 30, 2015
4b. Measures:
   1) The jail will track and document the installation of the digital channel on the existing radios.
   2) Facilities will work with NW Communication to install the coaxial cable in the Courthouse and Public Safety Building as well as the repeater and duplexer in Central Control at the Downtown Jail.

5a. Other Departments/Agencies:
   AS Facilities:
   All installation of new wiring and equipment must be done in accordance with codes and under the supervision of Facilities. This will be done as part of their normal duties and will be scheduled to work within their work schedule.

5b. Name the person in charge of implementation and what they are responsible for:
   Mike Russell will oversee the process. One of his technical staff will most probably oversee and approve the installation.

6. Funding Source:
   Jail sales tax fund.
**TITLE OF DOCUMENT:**
2016 Annual Road Construction Program (ACP) Resolution.

**ATTACHMENTS:**
1. Memo to County Executive and Council
2. Resolution
3. 2016 Annual Construction Program (ACP)
4. Summary Sheets for Projects Funded in 2016

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

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

Should Clerk schedule a hearing?  ( ) Yes  ( ) NO
Requested Date: 10/27/2015

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

Resolution adopting the Whatcom County 2016 Annual Construction Program (ACP). The ACP is an integral part of the County budget process and reflects the first year of the adopted 2016-2021 Six Year Road Capital Construction Program.

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

**Related County Contract #:**

**Related File Numbers:**

**Ordinance or Resolution Number:**

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

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

Through: Jon Hutchings, Director

From: Joseph P. Rutan, P.E., County Engineer/Assistant Director

Date: September 30, 2015

Re: 2016 Annual Construction Program (ACP)

Requested Action:
Public Works Committee work session and Introduction on October 13, 2015, followed by a Public Hearing and adoption on October 27, 2015.

Background and Purpose:
RCW 36.81.130 requires the adoption of the Annual Construction Program (ACP). Adoption of this program is an element of the County budget process.

This ACP is identical to the 1st year of the Six Year Transportation Improvement Program (STIP) approved on September 29, 2015.

Information:
A proposed resolution is enclosed for your consideration. In addition, each project that has funding available in 2016 has a project summary sheet for your review.

If you have questions or require additional information, please contact me at the number provided above.
RESOLUTION NO. __________

APPROVING THE WHATCOM COUNTY
2016 ANNUAL CONSTRUCTION PROGRAM

WHEREAS, pursuant to RCW 36.81.130, the Whatcom County Engineer did file with the Whatcom County Council a recommended plan for laying out, construction, maintenance and special maintenance of County roads for the fiscal year of 2016; and,

WHEREAS, the Whatcom County Council held a public meeting on the 29th day of September, 2015, and has considered the testimony given as well as the recommended plan; and,

WHEREAS, the Whatcom County Council had determined that said plan is necessary as nearly as practicable to the Whatcom County 2016-2021 Six-Year Transportation Program, approved by Resolution 2015-033 on September 29, 2015.

NOW, THEREFORE, BE IT RESOLVED that the 2016 Whatcom County Annual Construction Program is hereby approved as shown on the attachment hereto; and

BE IT FURTHER RESOLVED that no changes be made in the program without the unanimous vote of the Whatcom County Council; and

BE IT FINALLY RESOLVED that the 2016 Annual Construction Program be filed with the Director of Highways of the State of Washington.

APPROVED this ___ day of __________, 2015.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Carl Weimer, Chair of the Council

APPROVED AS TO FORM:

Dan Gibson, Chief Civil Deputy Prosecutor
### ANNUAL CONSTRUCTION PROGRAM FOR 2016

#### AGENCY ACTION: Whatcom County

**TOTAL'S**: WAC 136-16

- **TOTAL $S**: $6,913,000
- **County Contributions**: $1,998,332
- **Construction Costs**: $990,000

**Line (C) must be smaller than Line (B)**

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**Notes:**

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<td>Y5</td>
<td>CRP #910014 Non-motorized Transportation Improvements Various locations</td>
<td></td>
<td>FGH</td>
<td>100,000</td>
<td>10,000</td>
<td>100,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>Y7</td>
<td>CRP #910015 Railroad Crossing Improvements Various locations</td>
<td></td>
<td>FGH</td>
<td>20,000</td>
<td>5,000</td>
<td>15,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>46</td>
<td>Y8</td>
<td>CRP #910016 Neighborhood Traffic Calming Various locations</td>
<td></td>
<td>E</td>
<td>50,000</td>
<td>5,000</td>
<td>50,000</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
INSTRUCTIONS FOR USE OF THE ANNUAL CONSTRUCTION PROGRAM FORM
(Crab Form #3, Revised 06/09) WAC 136-16-010 through 042

**** GENERAL DATA REQUIREMENTS ****

AGENCY ACTION blocks; - complete all items as shown. Entering your county name will input your County Forces Limit on Line B.

CONSTRUCTION BY COUNTY FORCES COMPUTATION as per RCW 36.77.065; is computed for you from the Limits Table as follows:

<table>
<thead>
<tr>
<th>Counties over 400,000 population:</th>
<th>Counties 150,000 to 399,999 population:</th>
</tr>
</thead>
<tbody>
<tr>
<td>$3,250,000 X [1+(2015 MVFT %)/100]</td>
<td>$1,750,000 X [1+(2015 MVFT %)/100]</td>
</tr>
<tr>
<td>Counties 30,000 to 149,999 population.</td>
<td>Counties under 30,000 population</td>
</tr>
<tr>
<td>$1,250,000 X [1+(2015 MVFT %)/100]</td>
<td>$800,000 X [1+(2015 MVFT %)/100]</td>
</tr>
</tbody>
</table>

**** COLUMNAR DATA REQUIREMENTS ****

(1) Item No. - Use consecutive numbers beginning with 1. No priority is assumed.

(2) 6 Year Road program item No. - Use the priority number from column 1 on your most recent 6 year transportation improvement program (DOT Form 140-049). No number is necessary for miscellaneous projects as permitted under WAC 136-16-025.

(3) Road Log No. - County road log number (when applicable) as per the current road log as maintained by each county.

(4) Road/Project Name and Location - Enter the road or project name and location information as assigned by the county. As appropriate, include mileposts (from county road log), bridge numbers and etc.

(5) Project length - Enter the project length in miles.

(6) Functional Class - Enter the functional class for the road on which the project is to be located. The codes listed below can be found in the road log.

<table>
<thead>
<tr>
<th>RURAL</th>
<th>URBAN</th>
</tr>
</thead>
<tbody>
<tr>
<td>02 Principal Arterial</td>
<td>12 Principal Arterial</td>
</tr>
<tr>
<td>06 Minor Arterial</td>
<td>13 Principal Arterial</td>
</tr>
<tr>
<td>07 Major Collector (FAS)</td>
<td>14 Major Arterial</td>
</tr>
<tr>
<td>08 Minor Collector</td>
<td>15 Principal Arterial</td>
</tr>
<tr>
<td>09 Local Access</td>
<td>16 Minor Arterial</td>
</tr>
<tr>
<td></td>
<td>17 Collector Arterial</td>
</tr>
<tr>
<td></td>
<td>19 Local Access</td>
</tr>
</tbody>
</table>

(7) Type of Work - Use one or more of the codes listed. List major work items first reflecting the nature of the anticipated final project.

A. GRADING & DRAINAGE G. TRAFFIC FACILITIES
B. BASE & TOP COURSE H. PATHS, TRAILS, BIKEWAYS
C. B.S.T. / SEALS I. BRIDGES
D. A.C. / P.C.C. PAVEMENT J. FERRY FACILITIES
E. CURBS AND GUTTERS K. ENVIRONMENTAL MITIGATION
F. SIDEWALKS L. FISH PASSAGE

(8) Environmental Assessment - Use the following assessment codes (Reference: State Environmental Policy Act):

S = Significant I = Insignificant E = Exempt

*** PLEASE NOTE THAT THE DOLLARS IN COLUMNS 9 THROUGH 16 REFLECT ONLY THE AMOUNTS AND SOURCES EXPECTED TO BE SPENT DURING THE APPLICABLE CALENDAR YEAR

(9) Source of Funds - County - Enter the total amount of county funds estimated for the project (use columns 10 and 11 for RID, developer contributions, and similar non-county funds).

(10) Source of Funds - Other Funds - Enter the total amount of other funds estimated for the project. If more than one "other" source (such as RAP + FAS), show each "other" amount separately.

(11) Source of funds - Other Funds Program Source - For each "other" source shown in column 10, enter the abbreviation for the source type (ex: RAP, FAS, CAPP, BROS, UAB, TIB, RID, PVT, PWTF, etc.)

(12) Estimated Expenditures - Engineering - Enter the estimated amount of engineering (PE, CE and Administration) expenditures for the project next year.

(13) Estimated Expenditures - Right of Way - Enter the estimated amount of right of way expenditures for the project next year.

(14) Estimated Expenditures - Construction - Contract - Enter the estimated amount of contract construction expenditures, excluding PE, CE and Administration, to be incurred by the county.

(15) Estimated expenditures - Construction - County Forces - Enter the estimated amount of county forces expenditures, excluding PE, CE and Administration, for the project in the program year. Materials incorporated into a county forces project, even though created or supplied by a separate contract (ex: grading) are to be included in the county forces construction amount.

(16) Estimated expenditures - Grand Total - This is the total estimated expenditures for the project next year. This must equal the sum of columns 12 through 15 and also the sum of columns 9 through 10. The program total of this column should also equal the amount of construction shown in the final annual road budget.

Your proposed construction by county forces is totaled at the top on line C, "TOTAL COUNTY FORCES CONST PROGRAM - column (15)." Your limit, based on population and % MVFT distribution is listed in B, PUBLISHED "COUNTY FORCES LIMIT (see instructions)" from the Limits Table.
Birch Bay Drive and Pedestrian Facility
CRP #907001

Construction Funding Year(s): 2016 / 2017 / 2018

Project Narrative:
This project is located parallel to Birch Bay Drive from Cedar Avenue to the mouth of Terrell Creek, in Sections 30 and 31, T40N, R1E, and Sections 24 and 25, T40N, R1W. This is a 1.58 mile separated berm with pathway to encourage pedestrian use along Birch Bay Drive to support safety and to protect the roadway from storm damage. In addition, the project will provide mitigation for both beach erosion and roadway protection. This project is listed #R1 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Phase I of the Feasibility Study was completed in 2006. Phase 2A (Preliminary Construction Cost Estimate) was completed in 2007, and updated in spring of 2013. Preliminary Engineering began in late 2013, RW acquisition began in 2015 and construction is planned for 2016/2017. Additional funding sources will be pursued as they become available.

Total Estimated Project Cost: $11,450,000
Expenditures to Date: $1,850,000

Funding Sources:
- Federal: $3,200,000 (STP)
- State: $0
- Local: $8,250,000

Environmental Permitting: Whatcom County-Shorelines; WDFW-HPA, Army Corps of Engineers, DOE; Sec 404 Clean Water Act
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Birch Bay Drive, Embankment Repair
CRP # 914014

Construction Funding Year(s): 2016

Project Narrative:
This project is an embankment repair near Lora Lane in Section 30-31 of T40N, R1E. This project is listed #R2 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Preliminary engineering and permitting completed. Construction scheduled for 2016 pending obtaining final easements.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$227,500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$7,500</td>
</tr>
</tbody>
</table>

Funding Sources:
- Federal: $0
- State: $0
- Local: $227,500

Environmental Permitting: HPA, SEPA, County Shorelines, ACOE

Right-of-Way Acquisition (Estimate): TBD

County Forces (Estimate): $200,000
Slater Road/Jordan Creek Fish Passage
CRP # 915007

Construction Funding Year(s): TBD

Project Narrative: This project is located on Slater Road in Section 34, T39N, R1E. This project will replace an existing deteriorated, fish impassable arch culvert conveying Jordan Creek beneath Slater Road. The project is listed #R3 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: Preliminary engineering work, including an alternative analysis of replacement options is underway. A recommended replacement concept will be presented to Council in late 2015.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $125,000</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>Local $400,000 (STIP 2016-2021)</td>
</tr>
</tbody>
</table>

Environmental Permitting: HPA, SEPA, Sec 404, NEPA

Right-of-Way Acquisition (Estimate): $50,000

County Forces (Estimate):
Lake Whatcom Boulevard, Phase II
Water Quality Improvements
CRP # 915009

Construction Funding Year(s): 2016/2017/2018

Project Narrative:
This project is located approximately 1 mile east of Bellingham, in Sections 35 and 36, T38N, R3E. The work will involve drainage improvements and pedestrian improvements to a 1.3 mile section of Lk Whatcom Blvd between Cable Street and Strawberry Point, addressing stormwater quality issues. This project is listed #R4 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Survey work with associated base map and R/W research began in 2015. Preliminary design will be initiated to evaluate R/W needs, permit requirements and overall project costs. Construction time frame will be contingent on addressing funding needs along with resolution of permitting and R/W issues.

Total Estimated Project Cost: $ TBD
Expenditures to Date: $ 35,000

Funding Sources:
Federal $0
State $0
Local $5,000,000 (Grant funding will be sought)

Environmental Permitting: SEPA, CLR/CAO, Shorelines
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) $10,000
Horton Road
Northwest Drive to Aldrich Road
CRP # Not Assigned

Construction Funding Year(s): TBD

Project Narrative:
This new roadway project is located between Northwest Drive and Aldrich Road in Section 2 of T38N, R2E. The work involves a ½ mile of new roadway alignment, along with all the associated permitting, storm water and R/W issues. This project is listed #R5 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, right-of-way, and permitting to begin in 2016 with Surface Transportation Program (STP) Grants. Construction schedule dependent upon funding agreements with City of Bellingham and other sources.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
Federal $990,000
State $0
Local $250,000

Environmental Permitting ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate) TBD
County Forces (Estimate) N/A
Slater Road and Northwest Drive  
CRP # 914001

**Construction Funding Year(s):**  
TBD

**Project Narrative:**  
The intersection of Slater and Northwest Roads is in Section 2 of T38N, R2E. The intersection will be reconstructed to a 4-leg round-a-bout. Fish passage improvements will also be constructed on Bear Creek which passes underneath Slater Road at this location. This project is listed #R6 on the 2016-2021 Six-Year Transportation Improvement Program.

**Project Status:**  
$21,000,000 in state funding available for this project and project #R7, Slater Road, I5 Interchange, in 7/2019. Design and permitting expected to take 3-4 years with construction in 2022 or 2023.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
<th>$21,000,000*</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Includes Project #6 and #7</td>
<td></td>
</tr>
<tr>
<td>Expenditures to Date</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Funding Sources:**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$21,000,000 (7/2019 for Projects #6 and #7)</td>
</tr>
<tr>
<td>Local</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

**Environmental Permitting**  
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

**Right-of-Way Acquisition (Estimate)**  
TBD

**County Forces (Estimate)**  
N/A
**Slater Road**  
**I5 Interchange**  
**CRP # Not Assigned**

**Construction Funding Year(s):** TBD

**Project Narrative:**
This project is located north of Bellingham in Section 3, T38N, R2E. This project will improve the interchange/intersection of Interstate 5 and Slater Road. This includes the intersection of Slater Road with Rural Road and Pacific Highway. This project is listed #R7 on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:** $21,000,000 available for this project and project #R6, Slater and Northwest, in 7/2019. Design and permitting expected to take 3-4 years with construction in 2022 or 2023.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $21,000,000*</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $ 0</td>
<td>Federal $0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>

![Map of the project area with #R7 highlighted.](image_url)
Slater Road
Northwest Drive to Aldrich
CRP # 914012

Construction Funding Year(s): TBD

Project Narrative:
This new roadway project is located in Sections 1 and 2 of T38N, R2E. The work involves the construction of a new roadway between Northwest Drive and Aldrich Drive as well as construction of a round-a-bout at the new intersection of Northwest Drive and Horton Road. This project is listed #R8 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, right-of-way and construction dependent upon funding agreements with the City of Bellingham and other sources.

Total Estimated Project Cost: TBD
Expenditures to Date: $0

Funding Sources:
- Federal: $0
- State: $0
- Local: $50,000

Environmental Permitting: ECS, BA, SEPA, CLR/CAO, Corps of Engrs
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
## Roadway Frost Depth Detectors
**CRP # Not Assigned**

<table>
<thead>
<tr>
<th>Construction Funding Year(s):</th>
<th>2016</th>
</tr>
</thead>
</table>

### Project Narrative:
This item provides funding to address replacement of the County's aging network of roadway frost depth detectors. These detectors are critical for implementing appropriate roadway restrictions to prevent structural damage following periods of deep frost. It is listed #R9 on the 2016-2021 Six Year Transportation Improvement Program.

### Project Status:

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$250,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

### Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$</td>
</tr>
<tr>
<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$250,000 (STIP 2015-2016)</td>
</tr>
</tbody>
</table>

### Environmental Permitting:
TBD

### Right-of-Way Acquisition (Estimate):
TBD

### County Forces (Estimate):
TBD

Due to the nature of this item, no map exists. Location of the new roadway frost depth detectors will be determined in 2016.
Bennett Drive, Marine Dr. to West Bakerview Rd.
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative: This road project is located in Sections 14 & 23, T38N, R2E. This project will consist of resurfacing Bennett Drive from Marine Drive to West Bakerview Road. Additionally, all curb ramps and driveways will be upgraded to current ADA (Americans with Disabilities Act) standards and the roadway will be rechanneled to create a continuous bike lane. This project is listed as #R10 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Design and R/W will begin in 2016. Outreach and coordination with City of Bellingham and Bicycle Pedestrian Advisory Committee in 2016.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal |
| State |
| Local | $100,000 |

| Environmental Permitting | N/A |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate) | N/A |
Lummi View Drive Bank Stabilization
CRP # 908001

Construction Funding Year(s): TBD

Project Narrative: This project is located in Section 2, T37N, R1E. This project will consist of repair and stabilization of a ocean bluff failure that threatens a section of Lummi View Drive. This project is listed #R11 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Survey and preliminary cost scoping to be performed in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $2,500</td>
<td>Federal $0</td>
</tr>
<tr>
<td></td>
<td>State $</td>
</tr>
<tr>
<td></td>
<td>Local $30,000 (STIP 2016)</td>
</tr>
</tbody>
</table>

Environmental Permitting: SEPA, CLR/CAO
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Lummi Nation Transportation Projects
CRP #912017

Construction Funding Year(s): 2016

Project Narrative:
The Lummi Nation Transportation Projects is located in Section 2, T37N, R1E and Section 34, T38N, R1E. This work, in fulfillment of the ferry lease obligation, involves the construction of transportation improvement projects in accordance with Exhibit C of the October 27, 2011 Uplands Lease Agreement for Lummi Island Ferry Use at Gooseberry Point. This project is listed #R13 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Projects funds will be available for expenditure when funds of equal or greater value are matched by the Lummi Nation.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $4,000,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal $0</td>
</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $4,000,000</td>
</tr>
</tbody>
</table>

Environmental Permitting N/A
Right-of-Way Acquisition (Estimate) N/A
County Forces (Estimate) N/A

Due to the nature of this item, no map exists. Location of the new transportation projects will be determined in 2015.
Point Roberts Transportation Improvements
CRP # 910002

Construction Funding Year(s): 2016 / 2017

Project Narrative:
Point Roberts is located in T40N and T41N, R3W. The proposed improvements would be specific to area needs and the development of projects to be funded by the Pt. Roberts Transportation Benefit District. This project is listed #R14 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Public Works has assigned staff working with the Point Roberts Transportation Benefit District Advisory Committee to coordinate project evaluation and selection. The committee has recommended shoulder improvements on Marine Drive, traffic control study for the intersection of Tyee Drive and Benson Road as well as the intersections of Gulf Road and Marine Drive.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
<tr>
<td>Funding Sources:</td>
<td></td>
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<tr>
<td>Federal</td>
<td>$0</td>
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<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

Point Roberts

[Map of Point Roberts showing R14]
East Smith Road
Everson-Goshen Road to SR 542
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative:
This East Smith Road project is located between Everson-Goshen Road and State Route 542 in Section 25 of T39N, R3E and Sections 28, 29, 30 T39N, R4E. The work will involve the pavement rehabilitation of approximately 3.25 miles of roadway. This project is listed #R15 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting and construction to be completed in 2016. Rural Arterial Pavement Preservation (RAPP) grant funds will be sought.

Total Estimated Project Cost: $1,900,000
Expenditures to Date: $0

Funding Sources:
Federal
State
Local $5,000

Environmental Permitting
SEPA, ESA

Right-of-Way Acquisition (Estimate) N/A

County Forces (Estimate) N/A
East Smith Road & Hannegan Road
CRP # 914002

Construction Funding Year(s): TBD

Project Narrative:
The intersection of East Smith and Hannegan Roads is located in Sections 28, 29, 32 and 33, T39N, R3E. This project is listed R16 on the 2016-2021 Six-Year Transportation Improvement Program. This intersection currently experiences delays due to the lack of left-turn channelization on Smith Road. The first phase of this project is to analyze a range of solutions as well as their associated benefits, limitations, and costs.

Project Status:

Total Estimated Project Cost: $ TBD
Expenditures to Date: $14,000

Funding Sources:
Federal
State
Local $150,000

Environmental Permitting
SEPA, ESA

Right-of-Way Acquisition (Estimate) N/A

County Forces (Estimate) N/A
Marine Drive/BNSF Bridge Bicycle Warning
CRP # 915012

Construction Funding Year(s): 2016

Project Narrative:
This project is located in Section 15 of T38N, R2E. The work involves installation of a bicycle/slow moving vehicle warning system on the Marine Drive bridge over the BNSF railroad tracks. This project is listed #R20 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Design, permitting, and construction to occur in 2016.

Total Estimated Project Cost: $100,000
Expenditures to Date: $0

Funding Sources:
<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
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</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$100,000</td>
</tr>
</tbody>
</table>

Environmental Permitting
ECS, BA, SEPA, CLR/CAO, Corps of Engrs

Right-of-Way Acquisition (Estimate)
TBD

County Forces (Estimate)
N/A
Turkington Road/Jones Creek
CRP # 905013

Construction Funding Year(s): TBD

Project Narrative:
This project is located in Sections 7, T37N, R5E. This work involves completing design of road and bridge modifications in this area in coordination with the debris flow berm project being developed by the River and Flood Division. The project is listed #R21 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Alternate analysis work is underway by the River & Flood Division.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$ TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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<table>
<thead>
<tr>
<th>Funding Sources:</th>
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<tbody>
<tr>
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<td>State</td>
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<tr>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition (Estimate)</th>
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</thead>
<tbody>
<tr>
<td>$50,000</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
</tr>
</tbody>
</table>
Hemmi Road Flood Prevention
CRP # Not Assigned

Construction Funding Year(s): 2016

Project Narrative:
This Hemmi Road Flood Prevention project from Old Guide Road and Salmon Creek, is located in Section 13 of T39N, R2E. Hemmi Road is submerged several months of the year at this location. This project is listed #R25 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Project design and permitting in 2016 with alternatives and associated costs identified.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $0</td>
<td>Federal</td>
</tr>
<tr>
<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>Local $30,000</td>
</tr>
</tbody>
</table>

Environmental Permitting
Right-of-Way Acquisition (Estimate)
County Forces (Estimate)
**Innis Creek Road**

**CRP # 915014**

**Construction Funding Year(s):** TBD

**Project Narrative:**
This project is located northeast of Wickersham in Section 29, T37N, R5E. The work involves raising a quarter mile section of Innis Creek Road to mitigate flooding issues. This project is listed **#R26** on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**
Preliminary design and permitting work is underway with alternatives and associated costs to be developed in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$40,000</td>
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**Funding Sources:**

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<tr>
<th>Source</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Federal</td>
<td>$0</td>
</tr>
<tr>
<td>State</td>
<td>$0</td>
</tr>
<tr>
<td>Local</td>
<td>$60,000</td>
</tr>
</tbody>
</table>

**Environmental Permitting:** TBD

**Right-of-Way Acquisition (Estimate):** TBD

**County Forces (Estimate):** TBD

---

[Map of Innis Creek Road area]
## County Roadway Safety Program
### CRP # 915015

**Construction Funding Year(s):** 2016/2017

**Project Narrative:**
This project was the result of a Federal Safety Initiative to reduce fatalities and serious injury collisions on county roadways throughout the state. Whatcom County's grant addresses safety concerns through signage and rumble strips. This project is **#R28** on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$ 750,000</th>
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**Funding Sources:**

<table>
<thead>
<tr>
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<th>Amount</th>
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</thead>
<tbody>
<tr>
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<td>$743,000</td>
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<tr>
<td>State</td>
<td>$0</td>
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<tr>
<td>Local</td>
<td>$ 7,000</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>N/A</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
South Pass Road Failure Repair
CRP #915018

Construction Funding Year(s): 2016

Project Narrative:
This project will consist of excavating the existing roadway to install roadway stabilizing geogrid wraps to repair damage caused by severe winter rains in February 2015. Also, guardrail will be installed where warranted and drainage upgrades. This project is listed #R29 in the 2016-2021 Six-Year Transportation Improvement Program.


Total Estimated Project Cost: $782,500
Expenditures to Date: $55,000

<table>
<thead>
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<tbody>
<tr>
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<td>State</td>
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<tr>
<td>Local</td>
<td>$109,500</td>
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Environmental Permitting | Land Disturbance
Right-of-Way Acquisition (Estimate) | $10,000
County Forces (Estimate) | $10,000
Birch Bay Lynden Rd/Portal Way – Signalization - Mitigation
CRP # 91011

Construction Funding Year(s): 2016

Project Narrative:
This project is located south of Blaine and west of I-5, in Section 22, T40N, R1E. Proposed improvements include signalization, channelization and illumination of the intersection with minor changes to the vertical and horizontal alignment. Stormwater treatment and detention will also be implemented into this project. This project is listed #R30 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: The project is substantially complete as of April 2015. The project will be physically complete in April 2016, once the plant establishment period has been attained.

Total Estimated Project Cost: $3,600,000
Expenditures to Date: $3,412,000

Funding Sources:
- Federal: $3,250,000 STP
- State: $ 750,000 RAP
- Local: $ 300,000

Environmental Permitting
- SEPA, Corps of Engineers, CLR/CAO, HPA

Right-of-Way Acquisition (Estimate)
- Completed

County Forces (Estimate)
- N/A
# Lakeway Drive Corridor Improvement

**CRP # Not Assigned**

**Construction Funding Year(s):** 2018/2019

**Project Narrative:**
This project is located in Section 34, T38N, R3E. This project proposes to rechannelize 1.3 miles of Lakeway Drive to create a center left turn, ADA upgrades and bus pull-outs. This project is listed #R32 on the 2016-2021 Six-Year Transportation Improvement Program.

**Project Status:** Corridor Study performed in 2015. Engineering and construction to occur in 2018 or 2019.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date</td>
<td>$0</td>
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</table>

<table>
<thead>
<tr>
<th>Funding Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>

[Map of Lakeway Drive Corridor Improvement]
Yacht Club Rd RR Quiet Zone
CRP # Not Assigned

Construction Funding Year(s): 2018/2019

Project Narrative:
This project is located in Section 30, T37N, R3E. This project proposes to upgrade the BNSF crossing to "Quiet Zone" standards. This project is listed #R33 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local $5000</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Potter Road
South Fork Bridge No. 148 Replacement
CRP #998027

Construction Funding Year(s): 2016 / 2017

Project Narrative:
This bridge replacement project is located in Sections 17 & 18, T38N, R5E. The existing single-lane bridge (14.5' wide & 243' in length) is Structurally Deficient and Functionally Obsolete. The replacement structure is a 360' two-span, pre-stressed and post-tensioned concrete girder bridge. Access will be maintained throughout construction as this is the only public access to the residential, agricultural and tribal community west of the river. The project is listed #B1 on the 2016-2021 Six-Year Transportation Improvement Program, and has a project-based budget.

Project Status:
Construction began in May 2014, and is approximately 90% complete. It is expected that construction will be completed in summer of 2016, with plant establishment environment mitigation fully complete in 2017.

<table>
<thead>
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<th>Total Estimated Project Cost: $9,600,000</th>
<th>Funding Sources:</th>
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<tr>
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<td>Federal $7,074,000 BRAC</td>
</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local (includes potential $1 million contribution from BIA) $1,814,000</td>
</tr>
</tbody>
</table>

Environmental Permitting: BA, HPA, SEPA, Corps of Engrs, CLR/CAO, Shorelines, DNR

Right-of-Way Acquisition (Estimate): Complete

County Forces (Estimate): N/A
Whatcom County Public Works
Project Narrative

Marine Drive / Little Squalicum Creek - Bridge No. 1 Rehabilitation
CRP #910017

Construction Funding Year(s): TBD

Project Narrative:
This project is located near the Bellingham city limits in Section 8, T38N, R2E. This is a rehabilitation project to replace the bridge deck, strengthen the girders and cross beams, and remove the existing load restrictions on the bridge. The project is listed #B2 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
The project was submitted for BRAC funding in May 2012. Construction pending acquisition of BRAC funds.

| Total Estimated Project Cost: | TBD |
| Expenditures to Date: | $0 |

| Funding Sources: |
| Federal | $0 |
| State | $0 |
| Local | $20,000 (STIP 2016-2021) |

| Environmental Permitting | HPA, NEPA |
| Right-of-Way Acquisition (Estimate) | TBD |
| County Forces (Estimate) | TBD |
Hannegan Road / Nooksack River - Bridge No. 252 Scour Mitigation
CRP #911002

Construction Funding Year(s): 2015/2016

Project Narrative:
This project is located just south of the Lynden city limits in Section 20, T40N, R3E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #B3 on the 2016-2021 Six Year Transportation Program.

Project Status:
BRAC funding acquired. Construction to be completed in 2015 with final mitigation planting work to be completed in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>$240,000</th>
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<tbody>
<tr>
<td>Expenditures to Date:</td>
<td>$200,000</td>
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</table>

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$220,000</td>
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<tr>
<td>State</td>
<td>$</td>
</tr>
<tr>
<td>Local</td>
<td>$ 20,000</td>
</tr>
</tbody>
</table>

Environmental Permitting  | HPA, SEPA, SEC 404, NEPA, County Shorelines |
Right-of-Way Acquisition (Estimate)  | $5,000 (Temporary construction access easement) |
County Forces (Estimate)  | None |

[Map of Hannegan Road and Nooksack River area with Bridge No. 252 and surrounding roads marked]
South Pass Road / Saar Creek - Bridge No. 212 Replacement
CRP #911004

Construction Funding Year(s): 2016

Project Narrative:
This project is located southeast of Sumas in Section 17, T40N, R5E. This is a project to replace the existing 31 foot structurally deficient bridge with a 50 foot bridge. This project is listed as #B4 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Design and permitting to be completed in 2015 with construction in 2016.

Total Estimated Project Cost: $1,410,000
Expenditures to Date: $100,000

Funding Sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$</td>
</tr>
<tr>
<td>State</td>
<td>$</td>
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<tr>
<td>Local</td>
<td>$1,410,000</td>
</tr>
</tbody>
</table>

Environmental Permitting
HPA, SEPA, SEC 404, County Shorelines

Right-of-Way Acquisition (Estimate)
None Required

County Forces (Estimate)
N/A
**Portal Way / Dakota Creek - Bridge No. 500 Seismic Retrofit**
**CRP #910001**

**Construction Funding Year(s):** 2015

**Project Narrative:**
This project is located south of Blaine in Section 8, T40N, R1E. This is a seismic retrofit project to mitigate the risk of failure in the event of a seismic event. This project is listed **B5** on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**
Design work and permitting completed. Construction started in May 2015 and is expected to be completed in November 2015. Mitigation planting work will continue into 2016.

**Total Estimated Project Cost:** $4,048,6004
**Expenditures to Date:** $3,900,000

<table>
<thead>
<tr>
<th>Funding Sources</th>
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</tr>
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<tbody>
<tr>
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<td>State</td>
<td>$0</td>
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<tr>
<td>Local</td>
<td>$1,048,604</td>
</tr>
</tbody>
</table>

**Environmental Permitting**
HPA, SEPA, SEC 404, NEPA, County Shorelines

**Right-of-Way Acquisition (Estimate)**
None Required

**County Forces (Estimate)**
None
**N. Lake Samish Road Bridge No. 107 Replacement Study**
**CRP # 913006**

**Construction Funding Year(s):** TBD

**Project Narrative:**
This project is located on Lake Samish in Section 27, T37N, R3E. This is a project to perform an engineering analysis on rehabilitation/replacement options for this existing 250-foot timber bridge. This project is listed #B8 on the 2016-2021 Six-Year Transportation Improvement Program.

**Project Status:**
Preliminary engineering work is underway

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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</table>

**Funding Sources:**

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<thead>
<tr>
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</thead>
<tbody>
<tr>
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<td>State</td>
<td>$0</td>
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<tr>
<td>Local</td>
<td>$190,000 (STIP 2016)</td>
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</table>

**Environmental Permitting:** TBD

**Right-of-Way Acquisition (Estimate):** TBD

**County Forces (Estimate):** TBD
Hannegan Road Bridge No. 236 Replacement
CRP # 913007

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Hannegan Road between Central and Ten Mile Roads in Section 16, T39N, R3E. This is a project to replace the last 31-foot channel beam bridge on the Hannegan Road. This old design is not suited for the volume of truck traffic present on the Hannegan Road. This project is listed #B9 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Project design is nearly complete and permitting work is underway. Rural Surface Transportation Program (STP) Funds have been obtained for the construction of the project.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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<tbody>
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Funding Sources:

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<thead>
<tr>
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<tbody>
<tr>
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<td>$0</td>
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<tr>
<td>Local</td>
<td>$10,000 (STIP 2016)</td>
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</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): N/A
Roberts Road/Anderson Creek, Bridge No. 249  
CRP # 915020

Construction Funding Year(s): 2017

Project Narrative:
This project is located west of Deming in Section 19, T39N, R4E. This is a bridge replacement project. This project is listed #B10 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:

| Total Estimated Project Cost: | $1,370,000 |
| Expenditures to Date:          | $25,000    |

<table>
<thead>
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<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Massey Road/Sumas River, Bridge No. 291  
CRP # 915016

Construction Funding Year(s): TBD

Project Narrative:  
This project is located east of Everson in Section 5, T39N, R4E. This is a project to replace this structurally deficient bridge. This project is listed #B11 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status: Preliminary design and permitting is underway.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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<td>Federal: $0</td>
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<td></td>
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<td>State: $0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Local: $40,000 (STIP 2016-2021)</td>
</tr>
</tbody>
</table>

Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD
Mosquito Lake Road/N. Fork Nooksack River, Bridge No. 332
CRP # 915001

Construction Funding Year(s): TBD

Project Narrative:
This project is located east of Deming in Section 27, T39N, R5E. This is a preliminary engineering study on the existing bridge. This project is listed #B12 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: Preliminary analysis is underway.

| Total Estimated Project Cost: | TBD  | Funding Sources:
| Expenditures to Date:         | $100,000 | Federal | $0 |
|                              |      | State    | $0  |
|                              |      | Local    | $150,000 (STIP 2016-2021) |

Environmental Permitting | TBD
Right-of-Way Acquisition (Estimate) | TBD
County Forces (Estimate) | TBD
W. Badger Road/Bertrand Creek Bridge No. 50  
CRP # Not Assigned

Construction Funding Year(s): 2018

Project Narrative:  
This project is located west of Lynden in Section 12 & 14, T40N, R2E. This is to replace this structurally deficient bridge. This project is listed #B13 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status: BRAC funding has been secured.

<table>
<thead>
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<th>Total Estimated Project Cost: $1,801,000</th>
<th>Funding Sources:</th>
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</thead>
<tbody>
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<td>Federal $1,430,000 (BRAC)</td>
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<table>
<thead>
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</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>
South Bay Road/Fir Crk Brdg No. 120
CRP # 915021

Construction Funding Year(s): 2016

Project Narrative: Project #46
This project is located on South Bay Road in Section 26 of T37N, R4E. This is a rehabilitation project to mitigate scour on the existing bridge. This project is listed #B15 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:

Total Estimated Project Cost: $270,000
Expenditures to Date: $5,000

Funding Sources:
Federal
State
Local $270,000 (2016-2021 STIP)

Environmental Permitting
HPA, ACOE, SEPA, Shorelines

Right-of-Way Acquisition (Estimate)
None required

County Forces (Estimate)
$250,000
Slater Road / Nooksack River Bridge No. 512 Overheight Detection
CRP #914013

Construction Funding Year(s): TBD

Project Narrative:
This project is located on Slater Road at the Nooksack River in Section 6, T38N, R2E. This is an overheight detection/warning system project. The project is listed #B16 on the 2016-2021 Six-Year Transportation Improvement Program.

Project Status:
Preliminary design work to be completed in 2016.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $ TBD</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date: $1,500</td>
<td>Federal $0</td>
</tr>
<tr>
<td></td>
<td>State $0</td>
</tr>
<tr>
<td></td>
<td>Local $30,000 (STIP 2016-2021)</td>
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<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>N/A</td>
</tr>
</tbody>
</table>
Refurbish / Upgrade of the Whatcom Chief
CRP #910012

Construction Funding Year(s): 2016

Project Narrative:
This project involves the upgrade and preservation of the current ferry to Lummi Island, M/V Whatcom Chief. The project definition will address safety, accessibility and reliability concerns associated with the approximately 50 year old ferry. This project is listed #F1 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Opportunities for project funding will be reviewed as they become available.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
<th>TBD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditures to Date:</td>
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<table>
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<tbody>
<tr>
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</tr>
<tr>
<td>State</td>
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<tr>
<td>Local</td>
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<table>
<thead>
<tr>
<th>Environmental Permitting</th>
</tr>
</thead>
<tbody>
<tr>
<td>None Required</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Right-of-Way Acquisition (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>None Required</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County Forces (Estimate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
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</tbody>
</table>

M/V Whatcom Chief
Ferry Dock Improvements
CRP #914004

Construction Funding Year(s):
2016 - 2017

Project Narrative:
This project includes improvements to the ferry docks. This project is listed #F2 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Design, permitting, and construction activities are ongoing.

| Total Estimated Project Cost: | $2,000,000 |
| Funding Sources:               |            |
| Federal                       | $           |
| State                         | $           |
| Local                         | $2,000,000 (STIP 2016-2021) |

| Expenditures to Date:         | N/A |
| Environmental Permitting:     | HPA, SEPA, CORPS 404, COUNTY SHORELINES |
| Right-of-Way Acquisition (Estimate) | None Required |
| County Forces (Estimate)      | N/A |

[Map of ferry dock improvements]
Various Bridges Rehabilitation / Replacement
CRP #Not Assigned

Construction Funding Year(s): 2016 - 2021

**Project Narrative:**
This item provides funding to address unanticipated bridge rehabilitation and/or replacement. It is listed #Y1 on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**
Design and construction to occur as necessary.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $1,800,000</th>
<th>Funding Sources:</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Federal $</td>
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<tr>
<td></td>
<td>State $</td>
</tr>
<tr>
<td></td>
<td>Local $1,800,000 (STIP 2016-2021)</td>
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</table>

<table>
<thead>
<tr>
<th>Environmental Permitting</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
</tr>
</tbody>
</table>

Due to the nature of this item, no map exists. Council review and prioritization will be sought at the appropriate times.
Whatcom County Public Works
Project Narrative

<table>
<thead>
<tr>
<th>Right of Way Acquisition</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRP # Not Assigned</td>
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</table>

**Construction Funding Year(s):**
2016-2021

**Project Narrative:**
This item addresses the unanticipated need for Right-of-Way that may arise during a given year that requires immediate action. This project is listed #Y2 on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**
N/A

<table>
<thead>
<tr>
<th>Total Estimated Project Cost: $180,000</th>
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<tr>
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<table>
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<tr>
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<tr>
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<table>
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<th>Environmental Permitting</th>
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<tbody>
<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
<td>TBD</td>
</tr>
<tr>
<td>County Forces (Estimate)</td>
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</tr>
</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Unanticipated Site Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
This Annual Construction Program item addresses the unanticipated project(s) that may arise during a given year that require immediate action due to safety concerns, environmental factors, traffic volumes, accident history, funding or grant availability and other issues not related to an existing program project. This project is listed #Y3 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

Total Estimated Project Cost: $1,800,000

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<td></td>
<td>State</td>
</tr>
<tr>
<td></td>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting | TBD
Right-of-Way Acquisition (Estimate) | TBD
County Forces (Estimate) | N/A

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
**Stormwater Quality Improvements**  
**CRP # Not Assigned**

**Construction Funding Year(s):**  
2016 - 2017

**Project Narrative:**  
This project varies in location. Identification and prioritization to be addressed and reviewed through County Council. This project is listed #Y4 on the 2016-2021 Six Year Transportation Improvement Program.

**Project Status:**  
Design and construction will be completed in 2016/2017.

<table>
<thead>
<tr>
<th>Total Estimated Project Cost:</th>
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</thead>
<tbody>
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<tr>
<td>State</td>
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<tr>
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<table>
<thead>
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<tr>
<td>Right-of-Way Acquisition (Estimate)</td>
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<tr>
<td>County Forces (Estimate)</td>
<td>TBD</td>
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</tbody>
</table>

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Non-motorized Transportation Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
This program item addresses the need to identify and prioritize non-motorized projects for future consideration. Projects would include pedestrian and bike facilities (e.g., sidewalks, trails, shoulder widening) in various locations around the county. This project is listed #Y5 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

| Total Estimated Project Cost: | $600,000 |
| Expenditures to Date:          |           |

<table>
<thead>
<tr>
<th>Funding Sources:</th>
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<tbody>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>State</td>
</tr>
<tr>
<td>Local</td>
</tr>
</tbody>
</table>

Environmental Permitting  | TBD  |
Right-of-Way Acquisition (Estimate) | TBD  |
County Forces (Estimate) | TBD  |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Railroad Crossing Improvements
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
Locations to be determined. Identification and prioritization to be addressed. This project is listed #Y7 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
Locations and prioritization of projects is on-going. Negotiations with BNSF will be a factor on timing and cost.

<table>
<thead>
<tr>
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<th>Funding Sources:</th>
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<tr>
<td>Expenditures to Date: - 0 -</td>
<td>Federal: $0</td>
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<td></td>
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<td></td>
<td>Local: $120,000</td>
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Environmental Permitting: TBD
Right-of-Way Acquisition (Estimate): TBD
County Forces (Estimate): TBD

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
Neighborhood Traffic Calming
CRP # Not Assigned

Construction Funding Year(s): 2016 - 2021

Project Narrative:
Locations to be determined. Identification and prioritization to be addressed. This project is listed #Y8 on the 2016-2021 Six Year Transportation Improvement Program.

Project Status:
It is anticipated that the design and construction of projects will occur yearly as the needs and locations are determined.

| Total Estimated Project Cost: | $300,000 |
| Expenditures to Date: | $0 |

| Funding Sources: |  |
| Federal | $0 |
| State | $0 |
| Local | $300,000 |

Environmental Permitting | TBD |
Right-of-Way Acquisition (Estimate) | TBD |
County Forces (Estimate) | TBD |

Due to the nature of this program item, no map exists. Council review and prioritization will be sought at the appropriate time.
**TITLE OF DOCUMENT:** A Resolution Approving the Sale of an Access Easement

**ATTACHMENTS:**
1. Cover Memo
2. Resolution
3. Access Easement
4. Map of Site

**SEPA review required?**
- ( ) Yes
- (X) 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.)

Brian Kerkvliet and Alexandra King owners of property adjacent to a Whatcom County owned gravel pit known as Abel Pit have requested formal access over the County owned property to access their property. Whatcom County Public Works recommends selling an access easement to provide them with access to their property.

**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 County Executive Jack Louws and Honorable Members of the County Council

Through: Jon Hutchings, Director

From: Andrew Hester, Real Estate Coordinator

Date: September 29, 2015

Re: A Resolution Approving the Sale of an Access Easement

Enclosed is a resolution requesting the approval of an access easement allowing access across Whatcom County property.

Requested Action
Public Works respectfully requests that the Whatcom County Council hold a public hearing and take action on the proposed resolution to approve an access easement allowing access across Whatcom County property.

Background and Purpose
Brian Kerkvliet and Alexandra King own property adjacent to County property known as “Abel Pit”. There is a paved access road used by Public Works to access the gravel pit from East Laurel Road. The access road is part of the “Abel Pit” property and is not a County road. According to the property owners the access road has been used by the former owners of their property to access their property since the 1970’s. Aerial photos from 1976 show driveways existing off of the gravel pit access road. Public Works was unable to find a formal or informal access agreement in property records. Public Works is supportive of granting an access easement allowing access over the access road.

Funding Amount and Source
The property owners are responsible for paying all costs associated with the access easement including compensating Whatcom County $934.00 for the access easement as valued by an appraisal. No County funds have been expended to secure this easement.

Please contact me at extension 6216 if you have any questions or concerns regarding this resolution.

Encl.
RESOLUTION NO. __________

A RESOLUTION APPROVING THE SALE OF AN ACCESS EASEMENT

WHEREAS, Whatcom County owns a gravel pit known as “Abel Pit”, tax parcel number 390320 186151 0000, that has a paved road on it that is used by Public Works to access the property from East Laurel Road; and

WHEREAS, said paved road is part of the “Abel Pit” property and is not part of the County Road System; and

WHEREAS, Brian Kerkvliet and Alexandra King ("Grantees"), own property identified as tax parcel number 390320 183218 0000, that is adjacent to “Abel Pit” and use said paved road to access their property; and

WHEREAS, the Grantees and the former owners of the Grantees’ property have used said paved road to access their property since the 1970’s; and

WHEREAS, the Grantees wish to have formal legal access to their property; and

WHEREAS, while the County Code does not specifically address the procedure for conveying a limited interest in County property, this matter has been reviewed by the Property Management Committee with a recommendation to present to the County Council for approval; and

WHEREAS, Public Works is supportive of granting an Access Easement to the Grantees to provide them with formal legal access to their property; and

WHEREAS, as compensation for the Access Easement the Grantees will be required to pay Whatcom County $934.00 as valued by an appraisal; and

NOW, THEREFORE, BE IT RESOLVED by the Whatcom County Council that the Executive is authorized to conclude the sale of the Access Easement as set forth in Exhibit A to the Grantees subject to full payment and to the terms and conditions of the Access Easement.

APPROVED this _____ day of ______________, 2015

ATTEST:

Dana Brown-Davis, County Clerk

Carl Weimer, Council Chair

APPROVED AS TO FORM:

Daniel J. Gibson

Chief Civil Deputy Prosecutor
After recording return document to:

Whatcom County Public Works
Real Estate Coordinator
322 N. Commercial, Suite 210
Bellingham, WA 98225

Document Title: ACCESS EASEMENT
Reference Number of Related Documents: None
Grantor: Whatcom County
Grantee: Brian Kerkvliet and Alexandra King, as Trustees of the Able Trust, U/T/D March 14, 2006
Legal Description: Ptn of W 10 Ac of E 35 Ac of E ½ SW Less Rd, S20, T39N, R3E
Additional Legal Description is on Page 10
Assessor’s Tax Parcel Number: 390320 186151 0000

ACCESS EASEMENT

THIS ACCESS EASEMENT is made and entered into this ______ day of ________, 2015, by and between WHATCOM COUNTY, A WASHINGTON MUNICIPAL CORPORATION, hereinafter referred to as “Grantor” and BRIAN KERKVLIET AND ALEXANDRA KING, AS TRUSTEES OF THE ABLE TRUST, U/T/D MARCH 14, 2006, hereinafter referred to as “Grantees.”

RECAPITALS

WHEREAS, the Grantees own real property located in Whatcom County, Washington, legally described as follows: See Exhibit A attached hereto and made a part hereof. Situate in Whatcom County, Washington; and

WHEREAS, the Grantor owns real property located in Whatcom County, Washington, legally described as follows: See Exhibit B attached hereto and made a part hereof. Situate in Whatcom County, Washington; and

WHEREAS, the Grantees desire an access easement to and from their property; and

WHEREAS, the Grantees and previous owners of Grantees’ property have been using portions of Grantor’s property to access their property without permission;
ACCESS EASEMENT

NOW, THEREFORE, Grantor, in consideration of ten dollars ($10.00) and other good and valuable consideration in hand paid, receipt of which is hereby acknowledged, and in consideration of the performance by the Grantees of the covenants, terms and conditions hereinafter set forth, hereby conveys and grants to Grantees, their heirs, successors and assigns a nonexclusive access easement over, across, along, in and upon that portion of the Grantor’s property described in Exhibit C (“Easement Area”) attached hereto for the purposes of ingress and egress.

1. Grantees’ Use/Restrictions: Grantees agree to use the areas subject to easement granted by Grantor for ingress and egress. Grantees shall exercise their rights under this easement so as to minimize and avoid, insofar as possible, interference with the use by Grantor of Grantor’s property and shall at all times conduct their activities in the Easement Area so as not to interfere with, obstruct or endanger Grantor’s operations or facilities. Grantees agree not to damage the Easement Area beyond normal wear and tear associated with residential access. In the event Grantees damage the Easement Area the cost of repairing such damage shall be borne by Grantees.

2. Easement Area Legal Description: Grantees prepared Exhibit C, which describes the Easement Area. Grantees represent that Exhibit C is a true and accurate description of the Easement Area. Grantees’ obligation to provide a true and accurate description of the Easement Area is a material term of this easement.
ACCESS EASEMENT

3. Release and Indemnity. Grantees do hereby release, indemnify and promise to defend and save harmless Grantor from and against any and all liability, loss, cost, damage, expense, actions and claims, including costs and reasonable attorney’s fees incurred by Grantor in defense thereof, asserted or arising directly or indirectly on account of or out of (1) acts or omissions of Grantees and Grantees’ agents, employees, and contractors in the exercise of the rights granted herein, or (2) acts and omissions of Grantor in its use of Grantor’s property which affect Grantees and Grantees’ employees, agents, contractors, and other parties benefiting from said easement; provided however, this paragraph does not purport to indemnify Grantor against liability for damages arising out of bodily injury to persons or damage to property cause by or resulting from the sole negligence of Grantor or Grantor’s agents or employees. If liability arises out of bodily injury or death to persons or damage to property as a result of the concurrent negligence of Grantees, their agents or their employees, and of Grantor, its agents or its employees, Grantees are responsible for indemnification only to the degree and extent of the negligence of Grantees, their agents, or their employees. However, this paragraph does not purport to indemnify Grantor against liability caused by or resulting from the negligence of Grantor or Grantor’s agents or employees.
ACCESS EASEMENT

IN WITNESS WHEREOF, the parties have executed this document as of the date first above written.

Whatcom County

Approved as to form:
Prosecuting Attorney's Office

Daniel Gibson,
Chief Civil Deputy Prosecutor

Jon Hutchings
Director, Public Works

Accepted and Approved for 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, a municipal
corporation that executed the within and foregoing instrument, and acknowledged said
instrument to be the free and voluntary act and deed of Whatcom County, for the uses and
purposes herein mentioned, and on oath stated that he was authorized to execute said
instrument on behalf of Whatcom County.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
the day and year first above written.

Notary Public in and for the State of Washington
Residing at ______________________________
My commission expires __________________

Page 4 of 8 Pages
ACCESS EASEMENT

Accepted and approved by Brian Kerkvliet and Alexandra King, as Trustees of the Able Trust, U/T/D March 14, 2006

__________________________________________
Brian Kerkvliet, Trustee

__________________________________________
Alexandra King, Trustee

STATE OF WASHINGTON )
: ss
County of WHATCOM )

On this _______________ day of _______________ 2015, before me personally appeared Brian Kerkvliet and Alexandra King, as Trustees of the Able Trust, U/T/D March 14, 2006, to me known to be the individuals described herein and who executed the foregoing instrument, and acknowledge that they signed the same as their free and voluntary act and in the capacity and for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

__________________________________________
Notary Public in and for the State of Washington, residing at __________________________

My commission expires __________________________

Page 5 of 8 Pages
ACCESS EASEMENT

EXHIBIT A

Legal Description of Grantee’s property (parcel number 390320 183218 0000)

The South 370 feet of the following described property:

The North 650 feet lying west of a line drawn 30 feet west of and parallel with the east line of the following described tract:

That portion of the West 10 acres of the East 35 acres of the two following described tracts of land, to-wit:

The Northeast Quarter of the Southwest Quarter less the North 30 feet; and the North 20 rods of the Southeast Quarter of the Southwest Quarter, all of said land being in Section 20, Township 39 North, Range 3 East of W.M., more particularly described as follows:

Beginning at a point on the north line on the Southwest Quarter of Section 20, Township 39 North, Range 3 East of W.M., said point being North 88°42’30” West 676.00 feet from the center of said Section 20; thence South 1°00’ West, 1,671 feet; thence North 88°45’ West 271.4 feet; thence North 1°09’ East 1,671.2 feet; thence South 88°42’30” East,267 feet to the Point of Beginning, less County Road No. 101 (East Laurel Road).

Situate in Whatcom County, Washington.
ACCESS EASEMENT

EXHIBIT B

Legal Description of Grantor’s property (parcel number 390320 186151)

The portion of the West 10 acres of the East 35 acres of the two following described tracts of land, to-wit; The Northeast quarter of the Southwest quarter, less the North 30 feet; and the North 20 rods of the Southeast quarter of the Southwest quarter. All of said land being in Section 20, Township 39 North, Range 3 East of the Willamette Meridian;

More particularly described as follows: Beginning at a point on the North line of the Southwest quarter of Section 20, Township 39 North, Range 3 East of the Willamette Meridian. Said point being North 88°42’30” West, 676.00 feet from the center of said Section 20; thence South 1°0’ West, 1,671.00 feet; thence North 88°45’ West, 271.4 feet; thence North 1°09’ East, 1,671.2 feet; thence South 88°42’30” East, 267 feet to the point of beginning;

Excepting there from that portion of the North 650 feet, lying West of a line drawn 30 feet West of and parallel with the East line of the above described tract. Also less County road and containing 6.75 acres.
ACCESS EASEMENT

EXHIBIT C

Access Easement Legal Description:

A ten foot easement for ingress and egress over and across the following described tract;

Commencing at a point on the north line of the Southwest Quarter of Section 20, Township 39 North, Range 3 East of W.M., said point being North 88°42’30” West, 696.00 feet from the center of said Section 20; thence South 01°00’00” West, 408.00 feet; thence North 88°42’30” West, 10.00 feet to the west line of the east 30 feet of that tract of land conveyed under Whatcom County Auditor’s file number 839169; thence North 01°00’00” East, 408.00 feet to the north line of said Southwest Quarter; thence South 88°42’30” East, 10.00 feet to the Point of Beginning;

Less County Road No. 101 (commonly known as East Laurel Road).